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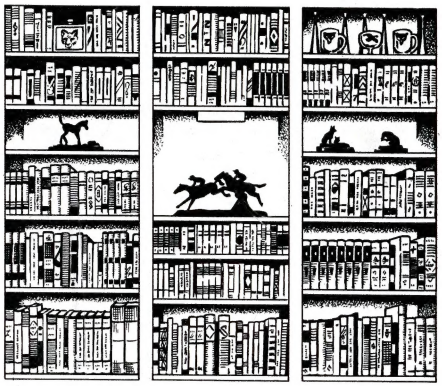

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THE

BRITISH CODE OF DUEL,

&c.

——— All within the riven walls were hung
With ragged monuments of times fore-past,
Of which the sad effects of *discord* sung:
There were rent robes and broken sceptres plac't,
Altars defil'd and holy things defac't,
Dishevered spears, and shields ytorne in twaine.

And there the reliques of the drunken fray,
The which among the Lapithees befell.

And eke of private persons many moe,
That were too long a worke to count them all;
Some of sworne friends, that did their faith foregoe;
Some of borne brethren prov'd unnatural;
Some of deare lovers, foes perpetual;
Witness their broken bands there to be seen,
Their girlonds rent, their bowres despoil'd all.

SPENCER.

THE BRITISH
CODE OF DUEL:

A REFERENCE TO

THE LAWS OF HONOUR,

AND

THE CHARACTER OF GENTLEMAN.

Honesta mors turpi vita potior. TACITUS.
Ex abusu, non arguiter ad usum. AX. LEG.

AN APPENDIX,

IN WHICH IS STRICTLY EXAMINED,

THE CASE BETWEEN THE TENTH HUSSARS AND MR. BATTIER;

CAPT. CALLA'N, MR. FINCH, &c. NOTED.

LONDON:

KNIGHT AND LACEY, PATERNOSTER ROW.

1824.

E. LIVERMORE, Albion Printing Office, 50, Fetter Lane.

TO HIS ROYAL HIGHNESS

THE DUKE OF YORK,

WHO HAS

evinced in his own person the *most delicate sense*,
and prescribed to the Army the *just limits*,
of the present Subject,

THESE PAGES,

INTENDED TO DIFFUSE SIMILAR PRINCIPLES,

ARE

MOST HUMBLY INSCRIBED.

ADVERTISEMENT.

THE title and inscription of these pages sufficiently describe their character: the attainment of a *British Code of Duel* is a "consummation devoutly to be wished;" *delicacy* in regard to its calls, and their *limits*, are most important points in its formation; its basis is the Law of Honour, and reference is every where essential to the ascertainment of the rank and character of Gentleman.

If the writer should in the outset be misapprehended as *promoting* Duel, the Reader is requested to do him the justice of passing through the whole before he draws his inference, when it will be evident that the greater number of the conflicts which have for some time astonished the public could not have taken place, if due attention had been paid to the principles which only can form the *gentleman*. A great object of these pages is to attract attention to those principles; when it is presumed the discipline of our universities and other seminaries of education (whatever the laxity of some abroad) will be equally competent to the cultivation of them, as they are to that of general learning.

Details might have been greatly multiplied on this subject; it were too much, however, to expect in this new attempt more than a general foundation, on which to obtain, from all who possess them, materials for completing the edifice.

This aid is therefore solicited in *any of its bearings;* it need hardly be added, that the experience of Gentlemen, decisions of sporting communities, or other illustrative facts, will be highly acceptable, and, if desired, confidence *honourably* preserved. Communications may be addressed to the Author (post-free) at his Bookseller's.

To such as desire to have what they impart justly appropriated, the Author will pay due attention; his only desire being the attainment of an interesting and important object, by whatever hand. On this attempt he may most aptly paraphrase the hacknied lines of Horace—

> Be candid, and impart whate'er there be
> Of better plan; if none, commune with me.
>
> ——— Si quid novisti rectius istis
> Candidus imperti; si non, his utera mecum.

It is proper to add, that if the Public should call for another edition, the place of the present Appendix will be supplied by more general matter.

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AN ATTEMPT

TOWARDS FORMING A

BRITISH CODE OF DUEL,

&c.

As war has prevailed in all ages and countries, notwithstanding the councils of the wise and the deprecations of the good, and is termed the *ultima ratio Regum;* so has duel, and may equally be called the *last reasoning of Men.* While war is justifiable, duel cannot be quite unlawful; the same incertitude of fortune accompanies both: as States have been unjustly reduced by the force of arms, so the most virtuous of Men have fallen before an offending antagonist. When the *goodness* of a cause was urged as promise of success to the great

Turenne, he said, "Fortune generally declared in favour of him who had the *best* troops and most battalions." Something similar may be extended to duel. The fitness of declaring war, or challenging to duel, or of entering into the conflict of either, equally depends on the councils of states on the one hand, and those of individuals on the other. On the latter is imposed the most awful responsibility that, perhaps, can fall on man.

A state justly wages war when no other means can be found to repel aggression; an individual, where he has no other resource. In ancient times one employed warriors as well as the other; and to this day age and sex have their champion in a near relation, but he at the same time becomes the principal. Duel is now confined to a question between two individuals, regulated by the counsel of two others, selected on

each side from among their closest friends. As these pages are not intended for the antiquary, it is unnecessary to remind the reader of times when the practice was legitimate, and even questions of *legal* right were determined by battle. Better reasoning having obtained, such questions, whether more successfully or not is often doubtful, have long been referred to courts of justice; and municipal laws have been *obliquely* directed against duel. By fictions of breach of the peace, and of murder, principals are arrested and put into bonds; and a surviving principal, with both seconds, tried for felony, but without avail. Indeed, where do highly penal laws prevail against opinion? Even crimes easy of avoidance, unless in madness, seem to multiply by capital punishment! The most *direct* law would hardly impede the practice. It is, however, to be remembered that even in

this legislating age, with a powerful religious party in Parliament, there is still certainly *no positive law against duel.**

Duel exists singularly in the British Empire at present; prevailing throughout the higher orders of society, including legislators, and generally recognised; it is indirectly proclaimed contrary to law. Neither principals nor seconds contemplate either a breach of the *public* peace, or the *crime of murder*, any more than *felo de se*. If bound by the British magistrate to preserve the one, or rather not to meet his antagonist in the British dominions; each party releases himself from his bond by simply crossing the British Channel:† if the conflict take

* Is even the statute *de magnis assisis et duellis*, which regulates minutiæ, yet repealed?

† It may, perhaps, be convenient to some to inform them, that France, wonderful to say, is now excepted from this resort. Not that duel is by any means prohibited; English, if domiciled, are permitted its use as far as they please, but the Great

place, and one falls, and the survivors are tried for murder, the jurors virtually recognize the laws of honour; and, if these have been fulfilled, pronounce acquittal. Not to dilate, it is evident, that propelled on one hand by opinion, and but negatively repelled on the other by legal power, the principle of duel retains its full force, and while holden to be without the pale of law, possesses the most positive laws.

Such being the character of duel, and such its state in this country, it follows next to enquire whence its practice derives the power by which it is continued? what are the laws by which that power is directed? and what is the extent of the influence of that power, and the jurisdiction of those laws?

Nation will not permit its territory to be made an object of *mere convenience*, and parties attempting it have been arrested, or have had very narrow escapes.

These enquiries the reader will find every one prepared to answer by the simple word, *honour!* For, as was observed by an intelligent writer a century ago, "Honour is a familiar expression in the mouths of persons of any condition; yet there are many who have very wide conceptions of it." It is necessary, therefore, to the present purpose, to enter somewhat into its definition.

Without going back with some writers to the date of the flood for pre-eminence, in the distribution of the post-diluvian world, according to the virtues of those who were left to inhabit it; or to Jacob for the origin of coat armour, it may be safely agreed, with all, that honour is a principle generated by virtue, as demonstrated in useful and agreeable services to a community; and from the appreciation of which arose those exterior distinctions to which it gives name, for

the purpose of their preservation to posterity. Thus fortified, is the principle of honour ever kept alive, from the first to succeeding generations; and life without it held unworthy of possession.

The requisite sensibility that naturally accompanies every truly noble mind, and the vivid perception, not to say scrutiny, produced in the community by which distinction is conferred, renders it essential in the distinguished, to be, in the words of ancient chivalry, "without fear and without reproach." Hence the influence under which duel still prevails against every discouragement, and will in all probability continue to prevail till the dissolution of present society.

The laws by which every thing connected with honour is directed, generally designated as the *laws of honour*, comprise a variety of the most important statutes and ordinances since the period

shortly after the Norman Conquest, when England began to settle in civilization, and the lights of antiquity were, though dimly, seen; the patents of nobility, institutes of knighthood, and offices of state; statutes regarding the subject, down to the arrangement of precedence, and the regulation of armorial bearings; form prominent parts. These all set out, in some way, the grounds on which the honour or office is granted, and thus preserve in the memory of the possessor the qualities required to its just possession. Among them will be found the laws of battle. To the whole may be added that universal *lex non scripta*, the common law of GOOD BREEDING, as it is still called, significantly of hereditary dignity; and which materially marks the grace, courtesy, and general good manners—the minor, as well as the major virtues—to be expected from those born of honourable progenitors, in contra-

distinction of such as, being without those advantages of birth, are not expected to possess its accomplishments.*

This is not a treatise of morals any more than of antiquities: it is for others therefore to tell how true genius may, as hath been done, break the shackles of servitude, and aspire to the highest honours.

While honour and dignity are the reward of virtue, any lapse of it that may tend to affect the character of Gentleman, is punishable by formal degradation, expulsion from peculiar association, and, ultimately, with loss of privileges, from society in general. A Dignitary is bound by the most solemn oaths, the perpetuity of which is supposed to render that test unnecessary to Peers, where required in inferior orders. These

* The argument of *contra bonos mores*, [good manners or morals] well known, still operates in cases not positively tangible by law.

only declare upon *honour:* it was held in Parliament a breach of privilege in SirWm.Bevesham requiring that a Bible should be placed before Lord Plymouth, even in giving his answer to a bill of Chancery against him. So did the law preclude the arrest of a Peer for a *breach of the peace* expressly on the ground, above stated, that he must be deemed incapable of such a thing. The martial virtues every where pervade nobility. The terms *scandalum magnatum* in law are well known and understood.

It may be here also incidentally observed that the title of "Lord," which, as regards the English, has become ridiculous on the continent, while the really lesser ones of Prince, Count, and Baron, have retained a silly force, seems renewed in dignity, when the Greeks, in their lamentations, transmute the title literally Λόρδ, while the name of Lord Byron is adapted to their tongue,

Byrona, (Βύρωνα). On the same ground which preserves nobility, it must be assumed as next to impossible that a gentleman could be capable of the positive impropriety of imputing a criminal offence to another.

The jurisdiction of that division of the laws of honour which is the subject of these pages, is bounded by the rank of Gentleman, which while it appears marked only as the lowest distinction of civil nobility, yet in character assimilates with the highest.

The word, compounded of the French *gentil*, and the Saxon *man*, is thus defined—(*honestus, vel honesta Parente natus;* and GENEROSUS)—one honourable in himself; in course possessed of all the generous virtues and graces so implied, with full means for their exercise, without occasion to descend to offices incom-

patible with the *generosity* of his character;* or of *parentage* from whom those excellencies have descended to him, to be preserved. This quality of gentleman has the exterior honour of arms, either so descended, or granted to himself for some virtuous service or noble acts; and several ancient privileges, among which are common to the reader that of permission to appear legitimately at the King's Court, wearing swords; and the courtesy which admits *a gentleman* into any society.

Neither Genealogy nor Heraldry belong to these pages, therefore the *jus agnitione, stirpis,* &c., the right in father and in mother, the lineal descent from *atavus, proavus, avus et pater,* are only

* Lest this point should be misunderstood, it is proper to add, that as early as the reign of Athelstan, patents of gentility were granted to every merchant who "on his own bottom" made three voyages to the Mediterranean. They now mingle with every other claim.

mentioned for the sake of the jus' *gentilitatis*, or descent from nobility or gentry, a right which could only be preserved in ancient times by "*perfectly possessing virtue;*" and to shew, that every grade was designed to prove a superior progress in virtuous excellence.

In furtherance of this shewing, Sir John Ferne, an ancient and distinguished legal writer, complained of men who in his time assumed the dignity of gentlemen, who were not so either by blood or *coat armour*, (in course thence assumed to be without conduct deserving it); he called this false honour *apocriphate*, and debarred it from all privileges of gentlemen. The objects of his censure seem to have been young men, who, creeping into certain employments just above manual labour, not satisfied with their avoidance of the character of churl, clown, or peasant, sought to overtop also the valuable one of yeoman, and thus steal sur-

reptitiously upon the rank of gentleman; forgetting how impossible it was to qualify themselves at once in those requisites of nature and habit, those generous principles, to say nothing of the higher virtues, which can alone constitute the character they assumed.

Among the privileges of gentlemen, it was enjoined *pro honore sustendo*, that if a gentleman (by blood, or coat armour) detracted from another *the combat should be allowed;* but if a clown, he was to take the remedy of legal action, *actione injuriarum;* a clown might not challenge a gentleman to combat because of the inequality of their condition, *quia conditiones impares;* certain observances and ceremonious respects were due to the gentleman from the clown; a gentleman was excused from base services, impositions, and duties, both real and personal; even Queen Elizabeth (5th of her reign) exempted them from husbandry.

Several distinctions were made between genteel and ignoble persons in voting, giving evidence, &c. A gentleman was examined without torture, while that mode was in operation; if condemned to death, he was not hanged but beheaded. To take down the coat of arms of a gentleman, to deface his monument, or offer violence to any ensign of the deceased, was held the same offence as to assault him while living, and so punished. Thus, and by several other means, was honour sustained in the ruder times, marking the sensibility, which even then characterized a gentleman; and was accorded to that character, even in the tomb.

The three first of the Institutes before quoted, are those which principally concern the present pages, and they remain in full force to the present time.

If a *gentleman* detract from another gentleman, the resource that is pre-

scribed against others do not avail, since it must always be assumed that a gentleman cannot do so, but under circumstances of strong conviction in his own mind, however unfounded, or most probably expressed in heat, and therefore *the combat is allowed.* For to the lively sensibility and quick perception before mentioned, explanation seems incompatible with the total absence of fear requisite to a gentleman on the one hand, and apology, on the same ground, on the other. This consequence certainly yields a powerful and just theme to the moralist; nor if *bad passions* could be supposed to operate, could it be screened from his full vengeance; as in *excess* it becomes, if ascertained, *directly* subject to municipal law. On such a possible occasion as this excess, the party resigns himself to degradation from the character of a gentleman; as a captious or quarrelsome individual iso-

lates himself in society. If any of the *apocryphati* of Sir John Ferne's time should have descended to our own, as they could have no community of this kind with *gentlemen*, being particularly and most properly precluded by the last of the three Institutes before quoted, *quia conditiones impares*, they will come *directly* before the eye of the civil magistrate, as disturbers of the public peace, not from their combat, but their clamour! Living caricatures, they are indeed fit objects of that ridicule, which, though no test, properly directed, is no powerless aid of truth; and if, from insignificance, they should escape the major punishment of municipal law, they will not fail to receive, at present, the minor one fully at the hands of that satirical *wight*, who right worthily noteth the crumbs that fall from the *master's* table.*

* The spirited author of "Mornings at Bow Street" can be eminently useful in this way.

To return, however, no gentleman being presumed to be capable of vulgar fray, or so forgetful of his relations to kindred and country, as to be idly prodigal of life, what a powerful impulse is thus constantly placed upon him, to guard *himself* from the power of detraction, and his tongue from the detraction of *others;* and by the selection of his society to avoid that likely in any way to forget the duties imposed upon it by the character of gentleman.

One head only of the causes of duel has been mentioned, but it is one which comprises many others, and as it is apparently the least defensible, while others may also be mentioned in their proper places, the illustration of which would create pain in families, one case shall be quoted here; that of Colonel Montgomery and Captain M'Namara, R. N. both perfect gentlemen by birth and demeanour, both high minded men;

it is unnecessary here to add, both in his Majesty's service, because that subject requires separate treatment.

The dispute arose from one, perhaps, of the most trifling of incidents, yet of importance to those who possess favourite, and probably faithful animals. The parties were riding in Hyde Park; their two dogs quarrelled; that of Capt. M'Namara triumphed, very likely from superior strength. Col. Montgomery hastily said, "Call your dog off, Sir!" This imperative tone, it will be evident, was unsuitable to the character of Capt. M'Namara as a gentleman; Col. Montgomery thought the case required his expressions: *the seconds seem to have* yielded, however it might have been hoped otherwise. The result is sufficiently known—Col. Montgomery's *fall*, and Capt. M'Namara's trial and *acquittal*.*

* This is not a case to admit a smile: it might, however, have been doubtful in the 14th century

A word need hardly be added to these melancholy facts, yet they should be applied thus far, as it is to be supposed the seconds did their duty, to shew the caution which every gentleman should use, to ever bear in mind the courtesy which belongs to his character, and to avoid any haughty expression even to those beneath him, in all cases not entirely justifiable; more particularly in a mixed multitude, where the princes of the blood royal might pass unnoticed from their unostentatious manner of appearance, were it not from the affection with which (notwithstanding the extensive policy of the Lord of ancient Glaston, and the chief of modern philosophers, Carlisle) they *contrive* to inspire the

whether the offending dog would not have been placed in conflict with the offending man! In 1371, the Chevalier Macaire was compelled to have a duel with a dog on a grave question. The case and a picture are in Montfaucon.

people, and make their blood warm on their approach.

Duel, then so arising, so influential, and so restricted, is now to be considered in its practice.

As public war has ever required counsels in its declarations, rules or regulations for its military conduct, and diplomacy for its conclusion; so to private combat all these are requisite, and the rather, that under the present municipal feelings, it is generally likely to be on very doubtful ground.

Dispute having taken place between gentlemen, on some detraction either in words, or by injury on the one part, it is in course assumed to be received on that of the other in a gentlemanly manner; he makes no retort, he disturbs no society, he ascertains the address of the party opposed to him, if

not intimately known; and he quietly confides it, with the facts that have occurred, to a friend, qualified in all circumstances to act as his second. It is said *in all circumstances*, because it will be seen from the parallel already drawn between public war and private battle, that an acquaintance with arms, and a mind capable of negociation, is necessary as relates to the principal; and, while a second is liable to be tried by the municipal law for his life, the duty is one of an onerous nature toward himself.

Therefore the mind of the friend to be selected for this duty should be perfectly free from any shackle of private circumstances, and if possible to avoid it, no married man should be called upon by his friend: it is also desirable that official men in general should not be so engaged. In short there should be nothing in the condition of a second that can in any way affect his nerves, or what is still more im-

portant, his *judgment*, in executing the peculiar duties assigned him.

For the principal having once referred to him, he has no longer any thing to do with the decision of the question till, if that be found necessary, his arrival in the field.

The second so chosen, free from every impulse but that of performing his duty toward his friend, has first to ascertain from the opposite party who he is to meet in a similar character. It is of course to be assumed that the opposite *principal* has been previously ascertained to be a gentleman, therefore it only remains to learn that the opposing second is the same. If possessed of any honourable office, or in the naval or military service, *without reproach*, of course this is indubitable. If the party be of the civil class, and a *stranger*, without insisting on the punctilio of ancient laws, he may be fairly expected as the readiest mode to produce his armorial bearings.

This point established, whether by proof or admission, then commences the business of diplomacy. In using this term, it is not intended to say that two men of honour met on an honourable question, are to enter into all the intricacies and obliquities of negociation; but they are bound to sift thoroughly the matter of dispute; to ascertain whether it be a question for duel; whether the challenger is entitled to call on the challenged; whether the latter is not so decidedly in the wrong, as to be bound in honour to submit to such apology as may be made, and received, by a gentleman; or whether there be *any* mode of honourable arrangement without the last resource.

If this latter be the case, as is at least very often probable, the seconds are bound to adopt, and the principals to accede to, it. For it is incumbent on the seconds to be satisfied by just reasoning, uninfluenced by the passion of the principals, that no

other possible resource remains before they agree to enter the field. It need hardly be said that excitement to duel can in no way come within the pale of honour, least of all that which is disingenuously insinuated by those who never, in their own persons, become principals or seconds. These characters are beautifully satirized, where one would least have expected it, in Samuel's Law Military, 394, 5.

There is, perhaps, only one unhappy case in which no apology whatever can be received. This is the positive seduction of a female of an honourable family: when a gentleman connected with it, is *thoroughly convinced* that the fault lay with the male, and that but for his misapplied address the taint would not have fallen on the family. Indeed, what apology could be offered in a case so ascertained? and without which it would not come within the pale of duel. The

offender in this case tenders himself as the victim of his error, and a sacrifice to the feelings of those he has so deeply injured, determined not to return his opponent's fire. It is the price of indulging unhappy passion; and he was in course forewarned that it would be so, by the laws of honour.

As the sex is thus unhappily introduced, and by far too many duels have arisen on its account, on grounds that are not quite within the jurisdiction of the laws of honour, this may be the best place, in the present casual arrangement, to introduce a few remarks on the subject:

> O *woman*, in our hours of ease,
> Uncertain, coy, and hard to please,
> And variable as the shade
> By the light quiv'ring aspen made;
> — When pain and sorrow wring the brow
> A ministering angel thou; —

condescend to glance at these lines, for they belong solely to thee.

The influence of woman is so universal, and mingles so entirely with all the concerns of man, particularly in his most exquisite sensations, as to require in its exercise more caution than is always to be expected from the open and generous nature of the sex. It is not intended to impose undue shackles upon this gentle nature, so essential to the happiness of man; but to suggest, agreeably to the tenour of these pages, certain guards as relate to its delicate share in the present subject.

Whatever of excellence has been prescribed as necessary to the character of gentleman, applies with undoubted force to that of Lady. As any male, who could violate, in any manner, the politeness that must ever mark the delicate relation of the sexes, must necessarily exclude himself from the pale of honour; so the female who could willingly, and thoughtlessly, become the cause of excitement to

quarrel, between gentlemen, must resign the character of lady, and in some instances even her natural claim to protection.

As respects parentage, levity of conduct, however innocent, which should attract instead of repelling impertinent obtrusion, if not warrant it, may place a father or a brother in a situation of the most singular, the most excruciating, and at the same time almost inexplicable, pain; sensibility and the ties of blood urging on the one hand, while on the other, reason may justly oppose the claim of honourable satisfaction.

As regards a lover, that delightful relation in which all mankind are sometime placed, this principle extends beyond the boundaries of contemplation. The mists of romance being dispelled, under the influence of which ladies' love was to be won only by feats of chivalry;

care is requisite that the rank and intelligence of gentlewoman* should not, by lapse of manners, sink into the rude simplicity of a village coquette. Such is the indulgence of vanity in entertaining more than one suitor, or the affectation of a freedom from feelings which only can warrant the entertainment of any; or a marked attention to others in the presence of the favoured one. Degrading to her own fame, it is most dangerous to others; for

> Beauty, thou pretty play-thing, dear deceit,
> That steals so softly o'er the stripling's heart
> —— *gives it a new pulse unknown before!*

and difficult indeed must it be, under the influence of a youthful passion, to impart that wholesome controul of dis-

* By the way this rank had its *legal* privileges as well as that of gentleman. To say nothing of Peeresses in their own right, &c. if an unmarried lady was sued as "spinster," she might avail herself of the misnomer as a gentlewoman.

pute, which it is the present object to describe. Shall gentle smiles, then, fire the unquenchable rage inspired by jealous love? Shall tender natures, formed to soothe, to bless mankind, generate discord, with all its attendant train of misery and ruin? Enough of this in these pages, and particularly addressed, as it is, to *ladies*.*

Few instances of good fortune on both hands can be expected to occur like that which *united* Sheridan and Linley. Few female professional singers can hope for eulogy like that of the gallant Wilkes: —"Superior to all the handsome things I have heard of her, she does not seem in the least spoiled by the idle talk of our sex, and is the most modest, pleasing, delicate flower, I have seen for a great

* If any thing further be requisite, a fine illustration is furnished by one of themselves, Mrs. Charlotte Lenox, in the character of Arabella, (Female Quixote).

while." Few lovers can calculate upon escape from repeated duel, even with the calumniator of worth so eulogized.

To proceed, there are some cases in which apology may be mutually requisite, and ought to be so, according to the very strictest interpretation of the laws of honour. This is where words are misconceived, and challenge follows. The party using them honourably and candidly declares, the words were misconceived, or misapplied, there was no cause for quarrel on his part. The party challenging from misconception or misapplication, is bound to his second, to accept explanation from his opponent, and admit his own error, or if circumstances require it, to apologize for its result. And this ought decidedly to be done without reference to the field.

A case occurs on this part of the subject, in which a very great man acted very inconsistently with enlarged princi-

ples, and in a manner rather indecorous towards his second. It was the late Right Hon. Charles James Fox. When the second of Mr. Adam called upon him, in consequence of a tirade in the House of Commons, in which Mr. Adam thought himself alluded to, from having recently joined administration from the other side; Mr. Fox, by letter, evaded the proper answer, or rather inferred that Mr. Adam's conscience applied what was said to himself. They met: Mr. Adam, strangely enough, desired him to fire: Mr. Fox answered, "*Sir, I have no quarrel with you;* do you fire." The fire was exchanged: the seconds enquired if Mr. Adam was satisfied. Mr. Adam asked if Mr. Fox would declare he meant no personal attack on his character? Mr. Fox answered, "This *is no place for apologies; go on:*" the seconds in course, also strangely assented: Mr. Fox fired his pistol in the air, and *then,*

and *in the very same place* said, that as the affair was ended (of which it must be presumed he was informed by his second), he had no difficulty in declaring he meant *no more personal affront to Mr. Adam than he did to either of the gentlemen present!* Surely this was a mockery of duel; and what was more, if Mr. Fox had fallen, and he *was* slightly wounded, his life would have been unjustly lost, ridiculously thrown away, and Mr. Adam's feelings been but little appeased.

This naturally leads to the consideration of the scene of quarrel, never to be lost sight of by seconds; as, for instance, in the bacchanalian orgies of a tavern, club, military table, or mess; or the cold-blooded *heat* of a gaming table, where the facts would require the utmost scrutiny in their ascertainment; a race-course, or betting-room, where the presence of honour is peculiarly requisite; a

theatre, where the matter may be very light: parliamentary, forensic, literary, and election quarrels, *et id genus omne.*

In the three first, the objects of consideration are obvious;* not quite so the others.

That parliamentary quarrels should claim the right of duel is very extraordinary; seeing that *liberty of speech* is actually asked and obtained from the King, and that parties on one side of the house, on all questions of power, use the privilege of deeming the other side every

* As the case of the father of the late Lord Byron, at the Star and Garter, in Pall Mall, disputing with Mr. Chaworth about the quantity of their land; Major Campbell and Captain Boyd, at their mess, about the manner of giving a command in the field of review under General Kerr, when the latter was killed, and the former *executed* for murder; and Ensign Cowell, of the guards, whose case in a playhouse at Lisbon was considered hard, but has received explanation in Samuel's Law Military, 428, 429.

thing but honourable; take a short and mild sample from the speech of the great leader just mentioned, on the very occasion before quoted, as applied to ministers: "*ignorance*, folly, incapacity, corruption; *impudence, gross stupidity; despicable* and unprincipled; claiming merit for what deserved an axe or a halter; a *lump* of *deformity* and *disease, corruption* and wickedness!" &c. &c. Moreover, a person of grave and elegant manners presides in the chair for the preservation of parliamentary conduct and order; and every member possesses the power, by motion, to suppress any disorder. From the very seat of reason, where every member is constantly reminded that he is noble, right honourable, or honourable, learned, or gallant, where every question can be instantaneously settled, to resort to duel, whence in such a case *nothing* is to be obtained but *plumbeo gladio jugulari*, is

incompatible with any principle accessible to the present writer. It is also, and justly, a violation of the privileges of Parliament. It might destroy the *essential* freedom of debate. In fact, if indulged, any question, however momentous to the nation, might, by just parity of reasoning, be adjourned from the senate to the field!

That forensic quarrel, where every advocate is bound to affect quarrel, and practice mendaciloquence, on the part of his client, should claim the forum of duel, is certainly out of character. Indeed, it is surprising how any such point can arise out of a wordy conflict whether a pickpocket shall go to the hulks or continue at home? They are here clearly out of court. It will be recollected that their quality of gentleman is not now in question.

Literary quarrel is as old as the revival of letters, and has been made matter of

history: its violence has been always excessive: to quote no other instance, Salmasius, in the great question between King Charles and the Commonwealth, called Milton a pathic, and in return, Milton told him he had lost half his virility; the one boasted that his opponent had become blind in the contention, the other triumphed in having *written* his enemy to death; but till the present age none, it is believed, ever thought of turning his stylus into a sword, or transmuting Christian ink into blood! If criticism be brought to this criterion, then will these frail pages stand highly in the world of letters! for that "occupation" to which literature has been indebted for its preservation and a large portion of its excellence, will be "gone;" and

> "_____ men in spite
> Of nature and their stars will write!"

The spirits of Aristotle, Quintilian, and

all the intermediate friends of judgment and taste, as well as genius, down to Harris, will be laid by *plumbean* exorcism; and "chaos come again."

In contradistinction to what has been before observed on the selection of seconds, here they can be only such as, throwing aside coat armour, claim exclusively in right of "the mighty mother," and are

"Called to this work by dulness, Jove, and fate!"

Not one of the three or four cases of this class that have occurred within the last few years, though two were melancholy indeed, was within the jurisdiction of the laws of honour. The opponent of Sir Alexander Boswell was not *rectus in curia* here; and as for the lamented John Scott, he was wrong throughout, as relates to the duel; and, if the statements be correct, lost his life solely through the ignorance of his second, to call it by no worse a name.

Elections being little else than common brawls, in which every elector, in the exercise of his *franchise*, duly claims the right of knocking out another's brains; when that chaste and beauteous lady, Liberty, grants liberties of every kind; and even Madame Constitution unbends from the strict sanctity of her wonted decorum, to appear in undress; when every candidate is, in the mouth of his opponent, a monster, growing in horror in proportion as he rises on the poll: an appeal to the laws of honour is quite ludicrous. Give and take is the only law of the political saturnalia; and "be as decent as you can," the only comment. Rare, indeed, must be any exceptions of a delicate nature here, where delicacy is so rarely known.

The circumstances of quarrel will be more minutely considered under the head which treats of evasion of duel.

The right of duel, under all the preceding prescriptions, being established in principals, by the determination of their seconds, the locality becomes the first object of consideration.

The place should be away from the haunts of men, and also from any quarter that has been recently often used as a resort for this purpose; seeing that the parties may otherwise probably be disturbed, under the fiction, before stated, of a breach of the peace, by the municipal authorities, and awkward suspicions arise, with respect to the party who made the choice having in view this reservation of personal safety.

As it is expedient that a surgeon should attend each of the parties, whenever possible, a gentleman should be selected who has had some practice in gun-shot wounds. If but one be invited, and the opposite party fall, his assistance, it need hardly be said, must be afforded

the same as if it were his own party. To guard themselves from being charged as accessaries, under the municipal law, surgeons should remain out of sight, though at but small distance, till called upon by the seconds.

Having with all due precaution arrived at the field, it still remains the duty of the seconds to attempt reconciliation by every *honourable* mean in their power.

This failing, and only then, though it is not pretended that *time should be uselessly lost*, they prepare for the combat. Here a part of the law of battle continues virtually in force; for though it is no longer necessary to search the parties for amulets, or any other *charm* of safety, or to discover whether weapons are, or are not, *poisoned*, yet the examination of arms takes place, and it is to be ascertained that in all respects the combatants meet each other on equal grounds.

Thus, for instance, spectacles con-

stantly worn by a principal from long defect in sight, were objected to the opposing second lately, and with propriety; for it will be remembered that the present Lord Londonderry's life was saved by the *brass tubes of the eye-glass* which he wore at his breast, in an affair of out-posts in Holland, 1799: they stopped a musquet-ball. Nor is this prevention less necessary to the wearer, since in an opposite fortune, the glass, &c. might greatly irritate a wound.

Of the sword it is now scarcely necessary to speak, as it has been for the last age laid aside in English duel; in fact, since this weapon (*gladio succingi*) after many modifications, became prohibited from ordinary dress. Yet as it may still be adopted by some proud of its use, and is very prevalent abroad, it should be mentioned, if only to mark its evils.*

* An illustrative note occurs here from the interesting little autobiography of Sterne: "The regi-

Among these are obviously the probable inequality of skill in parties, the number of wounds, and the difficulty of curing them, from the deepness of their extremities; and though last not least, their use not allowing any *positive* pause to the seconds for conciliation, even when the honour of both parties may have been mutually satisfied.*

In the bare possibility of the sword being yet chosen in England, it may be proper to state that the duty of the seconds is—

ment [in which his father was Lieutenant, Handasyde's, afterwards perhaps 16th foot] was sent to defend Gibraltar at the siege, when my father was *run through the body by Capt. Phillips in a duel* (the quarrel began about a *goose!*); with much difficulty he survived, though with a partial constitution," &c.

* Our transatlantic brethren have been described as using the musquet in duel. This is objectionable from the more positive aim.

1. To see that the swords are of equal length.

2. That the sod the parties stand on is clear, dry, and even.

3. And above all, that the combatants be placed so far apart, that they must advance towards each other before they can come to the assault.

4. The dress of the parties should be obviously such as to prevent advantage on either side in closing: such as is worn at an *assaût d'armes*.

Projectile weapons are consonant to the principle of duel, as relates to guarding against the false pride of strength or agility, since the most delicate sense of honour, and the utmost rectitude of mind, may be found often unaccompanied by these qualities.

In the use of pistols their examination requires care; as superior excellence is attributed to some, or the immortality of Manton's name is spurious; it is ob-

viously proper that those of the same degree of excellence should be used by both parties.

What might seem superfluous in the following prescriptions are unhappily found to be otherwise in practice. Therefore the attention of the seconds is to be called—

1. To examine the pistols, and see that they are perfect, even to the flint, to preclude mis-fire; and then to load them equally in the presence of each other.

2. To ascertain that the ground on which the combatants are to stand affords no direction to their fire; such as highways, footpaths, walls, hedges; ridges, or even the line formed by the horizon apparent: any of the former, if unavoidable, should be crossed obliquely (regard being duly had at the same time to the position of the rising or setting

sun)*; the last remedied, on discovery of the second, by shifting the position.

3. To determine upon, and then measure, the distance. This determination has been formed according to the various degrees of magnitude of the dispute. It is however now but little reckoned upon; as when combat is found to be the only resource, such considerations must generally be supposed to have ceased. And moreover nice calculators have often found, that from the parabola described by the ball on its projection, twelve or

* At an election duel fought some five years ago, on a dark morning in August, just as the parties were about to present, the sun suddenly broke forth, and dazzled the eyes of the principal who unluckily faced the east. In other dark days this would have been deemed a miracle! he escaped however with the loss of a finger from his left hand, which he had placed behind him, and which possibly saved his life.

fourteen paces are at times more dangerous than eight. The distance nevertheless is entirely in the discretion of the seconds, *ten* paces of *not less* than thirty inches being however always the *minimum*. And here the controul of the second may be called into operation by the passion of principals, which might lead them to fight muzzle to muzzle. It must also be recollected by gentlemen that eagerness for extreme proximity has always more the semblance of bravado than bravery. "Slugs and a saw-pit," is the proposition of a bravo in a play; and has been used by those who never intended to employ them even above ground. The ground being paced is to be sufficiently marked by any means at hand, and no advance is to be made beyond it. The parties, if they step at all, are to step *to* it, not *from* it, as otherwise they gain a pace of each other, which shortens the distance two paces. The

extension of the arm also would do more; but the discretion of a good second will in this be the best direction.

4. It is now pretty generally determined as it should be, that the parties fire by signal. This may be by motion of handkerchief or any other object, in the manner familiar to military men, or even common observers of a parade. It prevents that decisive aim, which might give one party the advantage over another, and is always to be avoided. The custom of alternate firing is now justly exploded; the only end which could ever have authorized it, is answered by the party offending beyond power of redress being bound not to fire upon his opponent.

5. The second is not to deliver the pistol cocked; nor is he to load again, without first using his utmost endeavours for reconciliation. Whatever feelings may actuate the principals, the seconds

can recognize none incompatible with humanity.

6. If one party fire in the air, though he may present, to impede the aim of his adversary, it must be an extraordinary case indeed where it does not terminate the affair. In such a case, if the anguish arising from extreme injury should excite the injured to go on, he who inflicted it cannot yet return his fire; he must throw himself entirely on the generosity of his antagonist, to influence which it is the business of the second.

7. If an offending party, in a case of no great magnitude, but one in which, nevertheless, he cannot recede from duel, shall generously divert his fire; and it should be possible for a second to permit, or a principal to be so ungenerous as, to fire again; the former is entitled to his utmost efforts. The parties exchange their characters in such a case.

8. Three fires should be the ultimatum in any case; any further reduces duel to a conflict for blood, or must subject it to the ridicule of incapacity in arms.

It has been already observed that if only a single surgeon attend, he will give the full effect of his skill to either party requiring it. In this he should be aided, as far as *possible*, consistently with their safety under municipal law, by the other principal and both seconds. Nor, if the wound be probably mortal, should the parties separate without mutual forgiveness. These frail pages must not speak of offended Deity. In this place, however, parties may be reminded that humanity is identified with honour, and that the qualities of a true Christian, are the same as those essential to form the character of a gentleman.*

* *Capt.* Sir R. Steele need hardly be referred to on this loose allusion, in those admirable Essays that have otherwise obtained immortality.

It has happened that from some dispute in regard to arrangements, which are in themselves very simple, or on the conduct of a dissenting principal, seconds have become principals to each other. Nothing can be more decidedly wrong. Nothing further, however, need be said on it, as it must necessarily be submitted to the counsel of other seconds, and become subject to the same rules as any other quarrel.

Should either party reject the suggestions of the friend in whose hands, *with all the cautions that have been prescribed*, he has placed his honour, the second should immediately quit the field.

The affair being concluded, whether satisfactorily or not, the seconds are as speedily as possible to agree to a report of its progress and termination, for the information of all concerned. This should be a simple and unornamented narrative of facts in few words. No expatiation

on the conduct of either party is admissible; nor should it be published, unless required by public anxiety, or the currency of incorrect statements.

Upon such reports may depend the future character of all parties, and therefore it cannot too often be repeated that they should be prepared in a manner altogether unexceptionable to *all* to whom they are addressed. If any proof of the necessity of this rule being always absolute were wanted, it would be found in some recent instances, allusion to which is in no way offensively meant, because they come from quarters, wherein the most correct method might have been attained, but for harrassing circumstances; and which therefore again shew materially the necessity of unembarrassed counsel.

It has been naturally assumed, that under the circumstances stated, gentlemen will always meet each other "without fear;" but, be it always remembered,

they must be also without the possibility of "reproach."

If therefore a gentleman evade a *justifiable* call, he thus necessarily puts himself without the pale of honour, and a notification of the fact to honourable society produces his expulsion from it; which has been called by the ordinary progress of language toward corruption, aided by euphony, "sending to coventry," q. d. *coverture*. Philology belongs not to these pages. However, a few remarks are necessary upon this subject, the more particularly as exclusion from society is mentioned elsewhere. That every man claiming the character of gentleman, who violates it in any way, is an object of exclusion, is indubitable; but that such a punishment, perhaps one of the heaviest that can be inflicted, must be cautiously applied, is no less so. Nothing from anticipation or light report can justify its infliction, without the most

strict enquiry. Any thing less renders the community in which it takes place, ridiculous; while the party impugned may rise triumphant, from the very injury which such a process, irregularly directed, must inflict, influencing the sympathy of a generous people. That a gentleman placed in this predicament, has a *moral* right to call for *explanation*, none can justly deny; if that explanation be not satisfactory, and still more if offensive, he is, in course, entitled to an immediate call under the laws of honour; but as this call must necessarily be on very unequal terms as regards himself, it would become a question for his second, the resolution of which, though to be guided by the principle elsewhere laid down, must greatly depend on circumstances.

On such evasion as above described, there have been means adopted that can hardly be characterised in any relation

with the laws of honour, because they make nothing for the question, and are liable to create, unnecessarily, breaches in society. These are "posting" and "horsewhipping," or "pulling the nose;" the one by writing the name of the party, accompanied by opprobrious epithets, in places of public resort; the other personal chastisement, or its representation, in public, by exhibiting the instrument of it offensively; or applying the hand to the face. These courses are rarely resorted to by honourable men; because if their origin be traced to the form used in the degradation of knights, the individual would usurp to himself the prerogative of the crown; and he would at the same time become amenable to municipal law, as for assault. The placard might also fall under the law of libel. But the worst part is, that they do nothing toward the settlement of a question; they affect not a man of courage;

and being what any ruffian is equally capable of performing, effect worse than nothing in demonstrating the character of a gentleman. It is useless to mention in such a case, the brutality of exercising either of the latter in the presence of ladies. Feelings that can be so gratified, in any way, are uncongenial with the spirit of the laws of honour.

Indeed, these have been used as a resource by those who sought no other; and after attempting thus to make a character, were no longer to be found. As, for instance, one who had mistaken his profession and joined a militia regiment, to gratify a party, by provoking another, innocently obnoxious to it, to offend against military law, provided himself with leave of absence, and then shook his stick before an officer just mounting a captain's guard. The officer solicited for him to be detained till he was relieved: the hero proposed to give satisfaction on

the *same day*, while the guard was on duty; before it was relieved he was beyond reach, and remained so for several months! He was then tried by a Court Martial, and cashiered.

There are cases, and unhappily in these days not a few, where a gentleman should neither make, nor receive, an appeal to the laws of honour: of these are obviously the two extremes of frivolity and malignance. In the *first*, may be applied the memorable injunctions of Arcadius and Honorius: "if it proceed from *levity*, *contemn* it;" and indeed the remainder of the sentence may apply to some others: "if from *madness*, it is worthy of commiseration; if from *injury*, let it be *remedied*:" (*si id ex levitate processerit, contemnendum est; si ex insanias, miseratione dignissimum; si ab injuria remittendum*).

Very young gentlemen may inconsiderately use an expression in hilarity, as

in hunting, or at cricket, or especially over wine, which, though offensive, perhaps, under the laws of honour, to notice seriously would be to break a butterfly upon the wheel. They must, however, be gently cautioned against its repetition, and attend to that caution, lest inadmissible language become habitual, or subject them to acerbity of temper, or austere manners. It need hardly be added to the youngest *gentleman* that practical jokes, as they are called, are always to be avoided. The Italians, though very lively, prohibit them as fit only for clowns, by the proverbial distich:

Joco di mano,
Joco villano.

So also the French: "*Jeu de main—jeu de vilain!*"

That there are cases where men of strict honour, and who are so rational on common points as to have free ingress

to the best society, are, notwithstanding, insane on a particular one, physiologists can best tell; to regard a call under such circumstances, however offensive, as it must, most probably, be, would be utterly inconsistent with an enlightened view of the laws of honour. That if real injury be the subject, whether intended, unintentional, or even unknown, and there exist a power to remedy it, that remedy ought to be applied, and every true gentleman is bound to apply it, even if it were only to anticipate the submission and sacrifice before prescribed, no man of honour will doubt. To evince mere *obstinacy* on such a point, as indeed on any other, would be to eject himself from the pale of honour. Even if it regarded estate in land, which in the ancient laws had much to do with the laws of honour, as necessary to perpetuate dignity in families, and where indeed *battle* was often legally introduced to

ascertain right, the injury *being proved*, notwithstanding the saving power of any hasty act of modern legislation, compromise should at least be made, as it has been done in very many, if not most of the cases tried either by *battle* or the courts of justice, on that singularly interesting subject. Violent or virulent abuse, even if possible that it could be justly applied, from one who has sustained the character of gentleman, or who has been admitted to it, may be safely classed under insanity; for by its use otherwise the party must be aware he abandons the character, and shuts himself out from honourable redress; however the exquisite feelings of the party to whom it is applied, may, as lawyers call it, *let him in*. In such a case, at the same time, it must be recollected that, to use their terms again, he opens the door to all manner of innovation upon the principle of duel, and must therefore do it at his

own peril. The counsel of friends must, in such a case, be bewildered, if not lost!

The allusion to ancient dispute on real estate, naturally brings into consideration modern ones concerning personal property. It has unfortunately happened that debts have been incurred by gentlemen, and even sometimes with gentlemen, and that upon being urged for payment, some have so far sunk from their natural caste, as to appeal from that suit to the decision of the laws of honour. In such a case it has been pretty generally understood, as it surely ought to be, that, however urgency might be conducted on the one part, *payment* must precede any call under the laws of honour on the other. Even sporting men have repeatedly if not invariably decided, that he who did not pay his bets, was a subject of exclusion from their circles; and thus circumstanced, that of general society must at least partially follow; unless

strong cause, from error in those judges, can be shewn to the contrary.

On this subject one circumstance is worthy of remark, however obnoxious it may appear to be to municipal law; that debts of honour necessarily precede all others in the consideration of a gentleman. The lawyers, however, need not object to this distinction; since any debt may be brought into that character, which is of a nature to induce a gentleman to pledge his word of honour for its payment.* So far, and no farther, the laws of honour; the professors of common law full well know the rest.

To return to the *latter* extreme stated in the proposition out of which these collateral observations have arisen—*ma-*

* Such is the origin of *promissory* notes, which are records of promise on word of honour, whence is derivable the commercial use of the word "*honoured*," as relates to the payment of a promissory note, or even bill of exchange.

lignance. It has so happened, *although incomprehensibly*, that gentlemen have been misled to make, or insinuate, which is nearly the same thing, accusations against gentlemen of so grave a nature, as that the suspicion could not be averted by the most sanguinary field of honour.

Among the most prominent of these accusations, of which, however painful to contemplate such aberrations from the principles of gentlemen, sad experience has shewn the existence, are such as have been ever termed *crimen falsi*, including perjury, forgery, &c. appropriating the property of others, and an indulgence in passions properly designated as not to be named among Christians. Such slanders must always be referred to juridical investigation. If the falsehood of the accusation be unproved, or its truth cannot be established by the accuser, which is the same thing, (for if he knew it not beyond doubt, he ought

not to circulate it) it is evident that *he* was not competent to ăn honourable meeting nor to remain in honourable society: if the accusation be proved just, it is equally evident *the accused* is in a condition still much more distant from the jurisdiction of the laws of honour.

As these things must appear almost incredible to many gentlemen, one case shall be mentioned, because distinguished in every way, and being the worst as well as most striking accusation,—one, the barest suspicion of which taints a gentleman through life, and covers him with infamy after death; the object of which, however it may be disregarded in other countries at present, and therefore its light imputation be deemed by some not matter of offence, the classical reader must be reminded was prohibited in *ancient Italy* by death, and proclaimed infamous throughout the laws of *ancient Greece*.

The case referred to occurred in the late Lord Salisbury's regiment; the calumniators were, by rank, esquires, the accused a gentleman. They were tried by Court Martial, and convicted of base slander; the Court, by its sentence, declaring, "that, after the strictest investigation, there was not the smallest ground for the calumny, nor the slightest taint whatever in the character" of him who had thus, in the most cruel and infamous manner, suffered what has been justly, as well as significantly termed, moral assassination!

Cases might be added under the other heads, but for the delicacy due to the individuals who have suffered under them.

Nothing can be more true than the application of the Latin adage here: if the *highest* debase *themselves,* or become corrupted, which is much the same thing, none become more *low:* "*Corruptio optimi pessima.*"

A call under the laws of honour, which has been delayed any considerable time after the occasion, if the party toward whom it was directed have been accessible, cannot be made good; since it is obvious that it cannot have arisen from that exquisite sensibility which alone authorises appeal to duel. In some difficult cases a moderate time may be allowed, if required, to obtain a friend competent to undertake the duty of second. But no adversary is to be kept longer in suspense than unavoidably necessary, and no judicious friend would approve its acceptance after such a lapse, unless under very extraordinary circumstances indeed, as of the opinion of society, and that *very coolly* considered.

A gentleman having availed himself of the common law in any way, cannot remove his case out of its courts into the forum of honour.

Nor, if he have taken any other satis-

faction of the party, as by bringing the affair, *ex-parte*, into public discussion, so as to influence the public against his adversary, in a way affecting his character; nor any disingenuous course, which must ever be incompatible with the laws of honour. Having adopted his field of action, he has no claim to any other.

It need hardly be said that a party inflicting personal violence excludes himself; nor that however fashionable the pugilistic art may become, if two gentlemen should enter into a conflict by this art, which must still be deemed, in relation to the present subject, jeu de *vilain*, neither are entitled to claim any other satisfaction.

A person apparently in the character of gentleman, who, upon giving offence, when asked for his address, should give one where he is not to be found, upon the fact being clearly proved, would be utterly without the pale of honour, and

be chargeable with obtaining access to society under false pretences. If this should be done by one receiving offence, unless his friend should immediately present himself, so that the meeting be assured, he would deprive himself of his appeal to arms, and incur disgrace according to circumstances. A club or hotel, frequented by a gentleman, is of course a good address, provided he may be met, though he do not live, there.

In fact any defect in the cause, or disingenuousness in the operations under it, are an entire defeasance of the judgment of honour.

It is, perhaps, due to the army to mention here a very mistaken notion, which has sometimes prevailed among gentlemen of the civil classes, of naval and military officers being dangerous if not

offensive members of their society; that *trained* to arms,

> —— sudden and quick in quarrel,
> Seeking the bubble reputation,

they are likely, if not to seek offence, to take it too readily, as is compatible with easy conversation, for the purpose of triumph in duel.

The very opposite must necessarily be the case; seeing, that the bravest men, the most experienced in war, those who have attained even the highest ranks that can be awarded to prowess, are invariably, without exception in any way, among the plainest, and most quiet characters of the community; and that if they were not, the military law on the subject of quarrel, as it at present obtains, would be quite sufficient to check any contrary tendency.*

* See the Articles of War, 8vo. 21, 86; also Naval Regulations; and Samuel, *ubi supra*.

That military men, whether of the sea or land service, may be more sensitive of offence than the class of civil nobility, notwithstanding the restrictions by which they are peculiarly bound, is not to excite wonder, seeing that not only character as gentlemen, but professional reputation is with them at stake; and what might only be matter of doubt and discussion in the civil classes, is with them necessarily matter of *prompt* decision, as regards every thing dear to them, and, in their persons, the honour of the country. In proportion however to this increase of the *vis compulsiva*, as it may be termed, is the more guarded and delicate caution against offence, a prominent feature of the military character.

As every one has a right to expect a satisfactory explanation from another, concerning expressions to his injury, so all explanations required on the principle which forms the subject of these pages must be of the purest character.

As no gentleman has a right to demand from another more than a retractation of offensive words *positively* spoken, a candid construction of *doubtful* ones, or a direct denial of any falsely imputed to him; so the answer of the respondent must be always open, unequivocal, and without mental reservation of any kind; for it is given *upon honour*.

If satisfactory explanation be not given, or words are avowed, and the answer can only, like the laws of Athenian Draco, be written in blood, the course has been already seen: but if a party disavowing words should envelope his disavowal in mystery, or cloud it in a disingenuous manner; if, from regard, to save the promulgator of a falsehood, he should mix up with the disavowal extraneous matter; it would be at the option of the offended party, of course with the counsel of his friend on the circumstances, to subject him to the utmost rigour of the

law of honour, or as holding him without its pale, to treat him with either public or silent contempt.

Important cases have occurred of apology even in the military character, such are those of Generals Murray and Sir Wm. Draper (celebrated for his literary conflict with Junius); Col. Debbiege to the Duke of Richmond, Major Browne of the 67th regt. &c.; which were ordered by courts martial; adopting in these cases the principles of a court of chivalry, or of honour. In the first, the King interfered, and even the court desired the reluctant party to "*consult friends.*"

On all circumstances it will be recollected that a gentleman is in no case whatever to trust to the state of his own feelings, or to his own construction of any doubtful point. His resort for the *conduct* of any proceeding by challenge, either offensively or defensively, is to the friend who is to undertake the office

of second; but in *counsel* he is not confined to an individual. On the contrary it may be often indispensably necessary to take the opinion of communities to which the party may belong. In sporting matters for instance, and in regiments, &c. &c.

Not only was this counsel always deemed necessary, but anciently the court of chivalry had cognizance of all affairs of honour, and made gentlemen who had, it must be presumed, *hastily*, used the terms coward, or given the lie, make such submission as the laws of honour required, not only to retractation of words, but even to take the lie he had given to himself (*mendacium sibi, ipsi imponere*). It comes not within the compass of these pages to quote the sages of common law, any more than the antiquary, the moralist, or the logician; but reference may easily be had to the sources necessary to support this and every other

statement in them; and if they *live*, which if all the critics shall *die*, i. e. be "*killed off*," they may fairly hope to do! the commentator will possess the advantage of interests entirely untouched in incalculable illustration.

Such being the foundation of individual battle, and such the rules from which it has been endeavoured to form an ENGLISH CODE OF DUEL; with a view to preserve to *gentlemen*, in their purity, the rights which have so long remained to them under the recognised laws of honour, to preclude the absurd encroachments which have for some years obtained, and at the same time to prevent the sacrifice of human life to malignity or ignorance, with all its relative evils to families and to the public peace; nothing more seems necessary at present;—unless it be by way of apology, or rather, conciliation to those

fiery spirits who start from any thing like cool reasoning upon quarrel, and rush headlong to the field of blood. They may class under the order prescribed by the late witty Bonnel Thornton, who deemed *suicide* a man fighting a duel with himself unfairly, from the absence of a second. Such also as practice pocket projectiles as a fancy, and boast of snuffing candles by a pistol-ball, or hitting themselves in a looking-glass, &c. &c.!

This is not the spirit of the laws of honour; nor is an impatience of applicable laws a proof of courage, but often the reverse. The greatest of lawgivers will be found among the most courageous and illustrious of men. The Romans owe to their laws, which still prevail, that eternity of command which their arms could not preserve. Our own great warrior, Edward I. was called, from the laws which he made for the remedy of many evils sustained by his people, and his care in

their collection and promulgation, the English Justinian; and a late conqueror, in the midst of the devastations of war, prided himself particularly in the excellent laws, both military and civil, which should, and do, preserve his name in the Code Napoleon.

These pages commenced with the presumptive lawfulness of individual battle. It is proper that they should close with stating, that the modern duel seems to have commenced unfavourably to English manners, and to have early required restraint. Philip I. when he became the husband of Mary I. of England, introduced along with Spanish cookery* and some articles of dress, the Spanish punctilio, and punctilious quarrel, and a considerable portion of it seemed so consonant to the chivalry of gentlemen as to

* Particularly the *olla podrida*, which is now represented only by the country squab pie.

have survived his reign, while the remainder has happily fallen into oblivion.

How *fashionable* duel had thus become in the 16th century, must be evident, when a favourite Spanish song began thus: *Se tu, sennora, no* DUELES *de mi*, to describe a lover's hope;—"*If, lady, thou shalt not conflict with me.*" But a prominent characteristic of this duel, it appears, was the *sudden stabbing* of each other, "in rage, drunkenness, *hidden* displeasure, or other passion of the mind!" and juries are stated in that age to have decided, that such stabs for offensive words amounted only to manslaughter.

When James I. ascended the British throne, his courtiers, like those of Philip, revived *this* practice of duel. The jealousy of two great and rival nations could not be expected immediately to subside, upon becoming subjects to the same monarch. The English deemed the Scots encroachers, and less civilized than them-

selves, and used offensive language towards them. The Scots, warm-tempered as well as courageous men, wore short Spanish swords, which their ancestors had probably derived from the Romans, who used the same, which are not very dissimilar from those now used by the German duellists.* These disputes obtained so much, that James was ultimately compelled to proclaim as prohibited "steelets, pocket daggers [dirks, which they placed also on their shields, improving on the Roman knob, or *umbo*], pocket dagges (hand guns), and pistols:" in another proclamation the King declares —"We do protest on our parts that we will never account of them [these duellists] but as of cowardes." His Ma-

* These are made so as that the hilt, guard, and blade separate from each other: the first is carried in the pocket; the second, which is large (and has been hence ludicrously termed the *soup-plate* of honour), in the bosom; the third in a walking-stick.

jesty had, in the very first or second year of his reign, had an act passed to take away the merciful privilege of clergy from "some kind of manslaughter," such as is described in the preceding paragraph. It was an act declaratory to his Scottish subjects, this offence of manslaughter being unknown to the Roman, and, at that time, to the Scotish law.

If a duellist, uniting this character with the studies of an antiquary, (as it has latterly been associated with the legislator, the barrister, and the poet, the latter never known as famous in fight) should remind the writer that James, from the fright received by his mother on the death of Rizzio, was *born a coward*, he is to be answered, that his Majesty's ministers and attendants, of either country, were not cowards, that they were recent from the reign of even a female potentate who was any thing but a coward; that his sway, though

tinctured, perhaps, with pedantic learning, was, nevertheless, a very gay one; as witness, among other instances, the splendid progresses of Gondemar, the *Spanish* ambassador, and others, through that fashionable avenue, then so distinguished as the residence of nobility, *Drury-lane*.

A Scotish writer of the time (Fynes Moryson) it is proper to mention, says, "let me adde one thinge of corrupt custome in Englande, that those who are *not groune menne*, never have an opinion of their valour tille in their youthe they have gained it with some *single fighte*, which done, they shall ever after live free from quarrels." This is consonant with Ben Johnson's character, in his Alchymist of "Gastriel, or the *Angry Boy*." Our divine Shakspeare has also a parody of Mutius on the different punctilios of the lie; and the young "*renowners*," as they call themselves, of

Germany, have it still in their Burschen code and commentaries.

Spain, according to Livy, was familiar to duel even in the time of Scipio, if one may judge from the passage concerning Corbes and Ossua, in their dispute for a Spanish province; and there can be no doubt that under the Romans the rules would partake of Latin refinement.* Italy and France, however, became famous in

* The writer is not aware, at present, of any other authority for specific private duel among the Romans. The affairs of the Horatii, and the Curiatii, like many more modern, were in a public cause, nobly devoted to save the lives of multitudes, and had their glorious reward. But these enquiries are not to the present purpose any more than that whether Cain and Abel were not the first duellists?

The rules of Philip le Bel (1306), and our own of that period, fall under the same prescription; as does the *still existing* law of private battle.

One thing is, however, too remarkable to omit; that in its latest operation it was reduced to cases

the 16th century, for duel, and introduced all their chivalry to it. Innumerable works, no longer read, were written on the subject. The law of the Goths may be mentioned in mere contrast to this refinement. "If," says Stiernhook, of the ancient Swedes, "a man say to a man the opprobrious words,—'you are not to be compared to a man,' or, 'your manhood's spoiled.' 'I truly am' [a man] (says the other) 'as much as yourself.' They *meet* on the road:" or, as the very deeply learned modern *historiographus gladiatorius*, Pierce Egan, would say, "*turn to* in the street." How similar are all our manners in all times; human nature is always the same. Not to increase these incidental remarks too much, it may, nevertheless, be added,

where a crime committed was capital, *its commission certain, common fame full of it*, and yet it could not *be proved juridically*. Does not this case resemble modern duel?

that a very good pen and ink drawing, perhaps of the time of Henry VIII. or thereabouts, has been just shewn to the writer by a learned and sensible antiquary, in which a very fine and flourishing knight is seen literally "*stopping*" the *dagge* of his adversary, by seizing with his left hand the right fore arm, while with his right he has pulled up his adversary's leg, and transfixed his own dagge somewhat above the knee. Probably something too much of this.

The most conclusive apology, to those to whom it is directed, for attempting to settle the question of duel, as it obtains at the present day, by a Code of Rules, will be, perhaps, the precedent recorded by the historian of Naples, once possessing the most polite and enlightened court in the world (Giannone), that PARIS de PUTEO, a Neapolitan advocate, *professed chiefly this branch of the law;* and that he was consulted upon cases of this sort, *referred to him from all parts of Europe.*

Looking at the various jurisdictions under which the subject has fallen at different times, it is impossible not to consider this precedent, in even the worst periods of duel, in a very favourable light, for if such an advocate could not always, as should be hoped, wherever it could be done consistently with the laws of honour, settle the matter in question, it must be evident that he would at least prescribe such arrangements, as should preserve respectability in a resort, which, if not polluted, must have been distorted; and, in our days, would at least ward off inconsistency, ridicule, and, perhaps, the charge of murder.

In a word, (though that word appears equal *in bulk* to its importance) something seems necessary to settle the amount of the very comprehensive term transplanted to our language from the Latin, HONORIFICABILITUDINITY.

Such a reference, whether to one or many, would be, it is presumed, both

useful and agreeable to the only class having claim, under the laws of honour, to the satisfaction of duel—legitimate *gentlemen;* whose good-breeding, manners, and proper feeling, are sure beacons for the avoidance of quarrel! and who, if unhappily brought into it, nevertheless, would evince all that is essential to the character. For, as Addison has beautifully said in reference to the army, and which may be equally said of all who are the proper subjects of these pages;—

"Their courage dwells not in a troubled flood
Of mounting spirits and fermenting blood;
Lodg'd in the soul, with virtue over-ruled,
Inform'd by reason, and by reason cool'd;
In hours of peace content to be unknown,
And only in the field of battle shown."

APPENDIX.

THE TRUE

STATE OF THE CASE

BETWEEN THE OFFICERS OF THE TENTH HUSSARS AND WILLIAM BATTIER, Esq.;

The Military Authorities; and the Public:

WITH THE MILITARY LAW ON THE SUBJECT; AND CORRELATIVE REMARKS, APPLICABLE NOT ONLY TO THE CASE, BUT THE MILITARY CHARACTER.—TO WHICH IS ADDED, A POSTSCRIPT ON THE LATE DUEL, AND ITS CONSEQUENCES.

I would not give, quoth Hudibras,
A straw to understand a case,
Without the admirable skill
To wind and manage it at will,
To veer and tack, and steer a cause
Against the weather-guage of laws,
And ring the changes upon cases,
As plain as noses upon faces;
As you have well instructed me;
For which you've earn'd, *here 'tis*, your fee.
HUD.

THE following pages were originally addressed to *The Times* newspaper, a journal, that, besides possessing a powerful influence in society, has formerly yielded, with great kindness, many columns to the discussion of military matters that would not have been sufficiently understood by others to entertain them at the necessary length.

On this ground, the writer, who also obtained all his information on the subject from that paper, felt that, exclusively of the antidote meeting the poison in the best possible medium, he could better rely on publicity being given to his endeavours, with the same candour that the Army had before experienced, notwithstanding any ebullitions

of wit, into which *on the present subject it had been surprised.*

But when these endeavours amounted to fifteen pages, closely written, it was impossible to expect, even improper to propose, such an insertion in a newspaper.

The sheets were therefore thrown by; and in the propriety of doing this, the writer was confirmed, from the subject ceasing, in some degree, to agitate the Journals, and hence, the Public. This confirmation had but short duration: the rage recommenced; this paper was drawn forth, and then, from illness of the writer, returned to his portfolio. The matter that again occurred from the duel, again brought it forth; and it was then proposed to be produced, with the honest desire of being useful to the Public. From the absence of the writer it was neglected at this time, and then determined to be suppressed altogether: however, as it is rumoured that *the subject is to be renewed with more force than ever, by an eminent Barrister*, it is presumed that its *previous* consideration would not be useless to him, and the present opportunity offering, it is here. It need hardly be added, after the explanation given, that it has neither been refused admission to *The Times*, nor offered to it. The only reason why this observation is made is, that some remarks of that Journal are made the subject of observation, and might therefore be misinterpreted as a cause of rejection, which the writer feels assured, would not, if the matter could have been comprised within reasonable space, have operated with that Journal.

In now giving them to the Public otherwise, it has been deemed proper to continue their original form.

To the Editor of the Times.

SIR,

You have been so often a friend to the Army, and no less so to the military administration, by admitting to your pages wholesome discussions on military law, that I feel it unnecessary to propitiate you by any complimentary apologies for the present attempt, which after much declamation on the subject on rather vague grounds, proposes to call attention only to *positive facts*, collected from your own pages, and the laws which have relation to them, on, perhaps, one of the most important of military questions.

A highly talented writer thus sums up a principle acknowledged by all:—"In armies as well as every other department of political power, men are often either ignorant how to direct that authority with which they are entrusted to its proper end, or they abuse and pervert it to purposes foreign to its nature and original designs."* That men of otherwise enlarged minds cannot always be safely trusted with military power, you formerly gave the Public, among other instances, and very much at large, a striking illustration. It was in a case where one of the most powerful advocates of civil liberty, having obtained the command of a local militia regiment, imprisoned a reputable serjeant in the common gaol, because he refused to go to school!† The Digest of the Military Law of England also states, that there had arisen in the military force of Great Britain‡ "a sort of

* Observations on the Military Force of Great Britain.

† Times, Aug. 31, 1811. ‡ 146.

system called *annoyance*, which under that *avowed* appellation, and by the abuse of military power, subverts every principle of justice; arraigns without charge; convicts without proof, and punishes without judgment."—It seems to me that somewhat of this system, which partakes of the character of the secret tribunals of the dark ages,* afflicted Mr. Battier on his joining the 10th Hussars; and it is a happy circumstance for the subordinate officer to find that such principles have been punished, and "will be condemned by the Commander-in-chief wherever they occur."†

As in the case of which I have quoted your former illustration, so in the present, upon a cool examination it will be found, that while the offending officers have been justly condemned for their personal conduct to Mr. Battier, there has been also no little error on his side. And agreeing with the universal condemnation of the former, it is essential that the latter should be also impartially shewn; that your powerful advocacy may not be productive of a result directly opposite to that which is your benign intention—to help the helpless, and protect the true dignity of the army. I need not tell you, Sir, that in your pages as well as in Parliament, a case which, however good in one respect, is strikingly defective in another, must necessarily be mischievous to the general cause. This is the object of my attempt: and although you have candidly stated that you are not military, I shall not propose to you to adopt my military knowledge, but present to you the Law Military itself, as the best ground on which to understand the case.

* Coxe's Wesphalia.

† Sir Herbert Taylor's letter to Lord Londonderry.

The parts of the law applicable on *both sides*, are those which relate to—1. The *recruiting and capacity* of officers.—2. *The conduct of commanding officers.*—3. The *preservation of harmony in corps.*—4. Regimental *messes.*—5. *Conduct on half pay.* These are to be found in His Majesty's "General Regulations and Orders for the Army," issued by the Adjutant-General, and of which every person receiving a commission is bound to provide himself with a copy for his direction, and his superior officers to see that he preserves it. The last No. is an exception so far as, though a General Order, it does not come within the injunctions of *actual* service. To the 3d an Article of War is added.

1. All applications regarding regimental appointments, promotions, exchanges, removals, or retirements, &c. &c. are to be transmitted through the COLONEL, or the officer commanding, &c. (p. 45, &c.) There are many other calls for positive interference of the Colonel. The period of *two months* is allowed to officers on their appointment to enable them to provide themselves with necessary equipments; if they do not do so, under circumstances the appointment may be cancelled. (p. 58.) In former Regulations instructions were given as to the mode in which young officers should be facilitated in the acquirement of their knowledge of various duties; in the latter issues, this seems to have been, with humane views, left to the commanding officer's discretion, as to capacity; but he is at the same time made responsible for it; and it is enjoined (p. 113) that "every officer who has been *two years* in the service shall be capable of commanding and exercising a *troop* or company in *every situation*; and shall be perfectly acquainted

with its interior management, economy, and discipline." (114): Officers commanding brigades, and reviewing generals, are directed to make the most strict enquiries and observations on this head; and if they find any officers who, either from *incapacity* or inattention, are deficient in this part of their duty, it is incumbent on them to report, &c. that they may be removed from the service, to which officers coming under this description can only be considered an *encumbrance*. In this case *an equal degree of reprehension* will attach to the *commanding officer*, unless he has made an especial report on the subject. See also 356, &c. &c.

2. "It is well known that *perfect civility* and the *most conciliating manners* are compatible with the exercise of the most strict command." (115, &c.)

3. "Unanimity and *a good understanding amongst the officers*, as connected with the character and discipline of a regiment, are objects peculiarly deserving the attention of the commanding officer. His *timely interference to prevent disputes*, his advice to the young and inexperienced, his *protection and favour to the deserving*, and his immediate reprehension of any conduct likely to interrupt the harmony of the corps, are the best means, &c." (ib.)

To this No. may be added the 1st Article of the 7th Section of the Articles of War, which enjoins that "no officer, non-commissioned officer, or soldier, shall use any reproachful speeches, *or gestures*, to another, upon pain, if an officer, of being put in arrest; or if *a non-commissioned officer, or a soldier*, of being imprisoned, and of *asking pardon of the party offended in the presence of his commanding officer*." The 2nd and 3rd articles of

the same section prescribe cashiering by Court Martial as the punishment of principals and seconds in duel.

4. "The commanding officer is *equally responsible* for the maintenance of discipline and due subordination in his regiment, whether on the parade, *at the mess*, or in any other situation. *Every officer* belonging to a regiment is at all times, and under all circumstances, accountable for the maintenance and preservation of good order, &c." (Gen. Reg. and Orders, 115.)

"An allowance is granted by His Majesty in aid of the expences of the officers' messes of corps stationed in Great Britain. The object is to place the mess of each regiment on the most respectable footing, and to give a general extension of the advantage and benefit it is calculated to afford—*most particularly* for that of the *junior* officers of the regiment." (ib. 116, &c.)

5. Of the conduct of officers on half-pay it may be necessary to observe that some misconception has, both for some time, and pretty generally, prevailed on that state. From a variety of discussions, both in Parliament and elsewhere, it has been conceived that they are entirely exempt from military jurisdiction, and that their half-pay is a remuneration for past services; though the absurdity of the latter position must be evident, when it is recollected that the youngest ensign in the army, who has joined a regiment on the eve of reduction, is necessarily also entitled to it: and indeed the former no less so, since in the event of a war, or even particular call, The London Gazette publicly demands their return to the service, on obedience to which depends the continuance of their half-pay. This is well-known usage;—how-

ever, to the Law. Not to multiply quotation, where numerous instances might be shown; as that of Major Armstrong, and Sir E. Coote, &c. I shall only refer to the *General Order of the 5th April*, 1819.* This Order states in its preamble, as usual, the circumstances which had produced it, viz.—the challenge of the commanding officer of the 55th regiment by two of its officers on half-pay, as averred, for conduct exercised towards them in his capacity of commanding officer, while on full pay under his orders. It proceeds to observe, that *it would be highly injurious to the discipline of the army to permit "the* NOTION *that when an officer is placed on half-pay, he shall feel at liberty*

* An ingenious and intelligent author (in an Historical Account of the British Army, and the Law Military, under the name of E. Samuel, 195, &c.) has objected, and with good reasoning, against such Regulations and Orders being taken as part of the Laws military; though, as he says, they may be produced in evidence on any breach of them. On this subject reference need only be made to *The Times (ubi supra)*. If the Statutory Law of the realm authorise certain Regulations, is not the breach of any one of them, a breach of the law which created them? The writer alluded to, admits that as *evidence* they may convict; what more is necessary to make them positive law? Though, in some points like these, evidently wrong, yet in many respects this is a valuable book. Coote and Armstrong's case is here, 433.

The Order to which reference is last had, though duly promulgated to the army, and entered in their regimental books, is only to be found by the public in *James's Collection*, p. 824. In thus necessarily reviving this case, it is due to that highly-valued officer, Lieut. Hasker, to state, that his involvement was unfortunate, not criminal; his provocation was the greatest that could be offered to a brave and dutiful son, disrepect towards a most respectable and affectionate mother, on the approaching death of a valuable father; but the Commander-in-chief cannot make exceptions in public duty, whatever he may do afterwards from considerate beneficence. The other case occurred at the same period unknown to Lieut. Hasker.

to set aside all the principles of DECORUM *and* SUBORDINATION;" and it then states *the dismissal of those two officers and the only second.* Then proceeds the application of these circumstances and reasonings, as a cautionary and prohibitory law to the army:—"The Commander-in-chief has received the Prince Regent's commands to promulgate," &c., as beforesaid; "in order that officers on half-pay may be sensible, that whenever they so far forget their duty as to give vent to feelings of personal animosity and resentment against their former commanding officer on the ground of his conduct towards them in his official capacity, during the time they were serving under his command, they *will not fail to draw upon themselves the royal displeasure to the same extent, &c.*" viz.—*dismissal.*

Such being the law, I proceed to an examination of the case.

Cornet Battier's letter of the 3d of March (with which it opens) certainly possesses two striking qualities, eloquence and temerity; but it possesses also two others, which rather deteriorate the former;—discrepance not only with other testimony, but with *itself;* and more than one hiatus in facts, to say nothing of dates; which render difficult a just conception of its points.

This much, however, seems clearly understood: He wishes to give publicity to facts shewing that little or no justice or redress is to be obtained in the army, and to *expose* this regiment; having, it would appear, laid his case before the general officers commanding, and also the highest military authority [without, of course, obtaining justice].

The Duke of York gave him liberty to purchase promotion; both verbally and by letter; expressed his disapprobation of the conduct towards him of the officers of the 10th; and in private visited them with his censure and reprimand; but he has not been pleased to publish *throughout the army any manifestation of his displeasure.* These are Cornet Battier's own words; and really, at first view, would seem to imply nothing less, than the unreasonable expectation that the whole of the army should be made to suffer His Royal Highness's displeasure for the conduct of a very few individuals toward the Cornet. It is, however, charitable rather to suppose that he expected, that as general orders are occasionally issued to the army for its guidance on certain matters concerning its economy, and important decisions of Courts Martial, so his concerns merited to be made a specific object in the direction of the whole army. This was evidently unreasonable, but it was also ill judged toward himself; for while the collective facts would have so neutralized each other as to render the General Order, where also no prohibition was necessary, useless; it must have proclaimed, what I should suppose very uncomfortable to the feelings of any man,—that Cornet Battier, after being seven years in the pay of his country, and aspiring to very distinguished service, was incompetent even to its incipient duties; such as are ordinarily acquired in a very few months.

"Thus frustrated," he says, in the object of his appeal, his *independent* spirit preferred retiring from the service on *half-pay*, and giving the matter every publicity through the Journals.

To say nothing at present of the first averred denial of justice, Cornet Battier seems to have

been so unacquainted with the common circumstances of his profession, as to mistake for that retirement from the service which *his "independence" desired;* retiring on half-pay, which gave him no other independence than the exemption from duty and the jurisdiction of Court Martial: officers retiring, as he ought to know, for purposes much less liable to objection, having been struck off the list of the army.

Having stated the *privacy*, and the *necessity* of publicity, of the want of which he complains, Cornet Battier immediately adds that *the facts are generally known*, and have been fully canvassed in the MILITARY circles!! a most unlimited publicity is afterwards added. Supposing, therefore, for a moment, promulgation according to his wishes had been made by the Commander-in-Chief, to say nothing more, how supererogatory must have been such a measure!

This *officer* (for so he still is, as much as ever, and bound to any call for service) proceeds to tell us, that the 10th prefer their own friends to recruit their regiment, and that in doing so, they use *among themselves* a foolish phraseology towards the military authorities; that on joining the regiment he found himself already placed in coventry! There is little doubt that the military authorities have trouble enough in arranging the promotional concerns of regiments, in which it should be remembered the Colonel, upon a rational principle of theory hitherto undisputed, has *generally* a power of preference; that levity may be found under cavalry uniform, of whatever make, as well as every where else; but none at all that Cornet Battier's treatment in joining, as he stated it, reflected greatly upon the commanding officer who

permitted, and the officers who inflicted it, and that it was contrary to military law; and dearly, according to Cornet Battier's grandiloquence, has the Commander-in-Chief made them pay for it, in all that is most dear to them either as soldiers or men.

Cornet Battier, who, at his commencement, says quite as much as that his application to the General Officers was fruitless, now "returns his sincere acknowledgments" to the General commanding the district (Sir Colquhoun Grant) for his "*impartial* and *gentlemanlike conduct;*" and states that "on the General forwarding his Report to the Commander-in-Chief, His Royal Highness expressed his unqualified disapprobation, and the officers retraced their steps; through Sir C. Grant they *made an acknowledgment of their error* to the man whom they were now compelled to bow to, and address at their mess." Even in this first stage could a greater triumph be afforded to any one, particularly a junior subaltern?

Cornet Battier then proceeds to Lord Londonderry: but what a hiatus is here! Not one word is said of any defect in Cornet Battier, or of the steps which had been taken not only by his commanding officer but *himself*, in consequence of it: defects, which if the corps was previously made acquainted with it, though it would not, as Sir Herbert Taylor tenderly observes, justify the treatment he received, must naturally create disgust in a body of efficient officers, whose *esprit de corps* made them anxious for its efficiency and good appearance in the field. This hiatus might without any very harsh construction be deemed *suppressio veri*, to which *suggestio falsi* is very nearly allied. At all events it should be somewhat considered.

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Cornet Battier, who, at his commencement, says quite as much as that his application to the General Officers was fruitless, now "returns his sincere acknowledgments" to the General commanding the district (Sir Colquhoun Grant) for his "*impartial* and *gentlemanlike conduct;*" and states that "on the General forwarding his Report to the Commander-in-Chief, His Royal Highness expressed his unqualified disapprobation, and the officers retraced their steps; through Sir C. Grant they *made an acknowledgment of their error* to the man whom they were now compelled to bow to, and address at their mess." Even in this first stage could a greater triumph be afforded to any one, particularly a junior subaltern?

Cornet Battier then proceeds to Lord Londonderry: but what a hiatus is here! Not one word is said of any defect in Cornet Battier, or of the steps which had been taken not only by his commanding officer but *himself*, in consequence of it: defects, which if the corps was previously made acquainted with it, though it would not, as Sir Herbert Taylor tenderly observes, justify the treatment he received, must naturally create disgust in a body of efficient officers, whose *esprit de corps* made them anxious for its efficiency and good appearance in the field. This hiatus might without any very harsh construction be deemed *suppressio veri*, to which *suggestio falsi* is very nearly allied. At all events it should be somewhat considered.

The public, which discusses the expence of an army, will naturally (and has a right to) expect, that it should be competent to its purpose, and that arm of it in particular, which, unless as nearly perfect as possible, is worse than useless. From the earliest periods of military civilization *Cavalry* has been regarded with particular attention: the Greeks selected their officers from the most wealthy Athenians; and prohibited by a punishment (Ατιμία) little short of death, if the lowest state of human degradation can be deemed so, any one from *offering to serve* in the horse till he was approved.* The Romans were no less particular in their choice. When Romulus instituted cavalry, he selected three hundred of the stoutest young men out of the most noble families. Afterwards they became knights, when beside the estate required, the strictest scrutiny took place, and was annually made, even as related to person and manner.† Our own ancient spirit in this respect need not be quoted. Utility is our present subject. Order, in every case essential, is the first principle of military action. From the politest society, which may be deranged by an awkward, unpolished member, down to the lowest grade of the operative classes, which disdain a bad workman-the evil of incapacity is generally felt; and some neither the best association will ever polish, nor the best tuition teach an ordinary trade. How

* Petit, Leges Atticæ: the penalty named *Atimia* was not only disfranchisement to the utmost, but warranted the *grossest humiliations;* this seems to have been imitated in our own *adjutant-general,* Jackson, who was made to swab the decks on board ship! The ceremonies of cashiering in the army are the same. See Military Law of England, p. 159.

† Grœvius Thes. Ant. Romanæ.

much more, then, must it be felt, where mobility with precision is essential to every operation? Who has not ridiculed awkwardness in an irregular soldiery? What military man has not felt the anguish of disorganization in a correctly constituted body from an awkward member, whether in cavalry or infantry? May he not render the finest movement ridiculous?

Now it is but fair to the 10th, if it were not, as it is, essential to what is my sole purpose—the due understanding of the case, that the hiatus should be supplied; and I shall supply it only from the matter (after the letter of Sir Herbert Taylor) furnished or admitted by Cornet Battier himself.

Sir C. Grant (and Cornet Battier avers that Cassio is an honourable man!) states that Cornet Battier "acquainted him that he and *his friends* were satisfied with the manner in which his representation had been met, and the whole affair arranged with his brother officers."

Reports had, however, necessarily been made in the ordinary routine of duty, through *the same Sir C. Grant*, of Cornet Battier's "utter unfitness for the duties of a cavalry officer, and of the improbability of his ever being sufficiently improved by drill or instruction to become capable of doing justice to his situation:" and these Reports were afterwards followed by a *special* Report of *the same* Sir C. Grant. Cornet Battier was accordingly told from the Commander-in-chief, that he had better remove from the 10th, the communication kindly offering to him at the same time permission to purchase a lieutenancy of *infantry* (not cavalry be it observed). To this proposition Cornet Battier, admitting his incapability of cavalry du-

ties, acceded; and it was clearly understood that he would so quit the 10th.

When the regiment was to be inspected by Sir C. Grant on the 19th of November, Cornet Battier earnestly solicited the General, through his Lieut. Colonel, that he would not expose his incompetency in attendance at the review; and Sir C. Grant acceded to his request, and moreover granted him three months' leave of absence from that moment; (the formal leave being necessarily dated after the return day;) which leave of absence was, as usual, deemed leave for the purpose of effecting exchange or resignation; a tender and delicate mode of relieving an officer so circumstanced, well known to all military men, so that he was from that moment to be considered as *no longer connected with the regiment.*

Cornet Battier even stated to Sir Colquhoun Grant that under these circumstances it would be *unpleasant to him to remain with the regiment;* and ceasing to do any duty, or *appear in uniform,* he left the barracks in *plain clothes,* which under any *other circumstances* would have been a gross violation of the King's General Regulations and Orders of the Army.*

The evidence of the preceding facts is Sir C. Grant, whose conduct, to the last moment even of his writing, Mr. Battier has so highly and justly appreciated. On the morning of the 24th, Lord Londonderry inspected the regiment; Cornet Battier was in course not present, but returned absent with leave, *the nature of which was clearly under-*

* See p. 116. "*Officers* are on no account to appear in plain clothes while in the vicinity of their camp or quarters; but are always to wear their proper uniforms."

stood; and the fact was communicated by Sir Colquhoun to Lord Londonderry.

Now, and not till now, in due order, the hiatus being supplied, comes Lord Londonderry into the question, and Mr. Battier's communication on his Lordship's conduct, in which, though addressed to the Military Secretary, who he must be aware was acquainted with his arrangement for quitting the regiment, the slightest allusion to that arrangement is not made! It is no otherwise important to notice this, than to preserve always in recollection, while he even here *suppresses*, the circumstances on which his leave of absence was grounded, that it was not a mere absence with leave, but a *quitting the regiment for ever.*

The hour of proclaiming the roast beef of old England approached, when the Colonel of the regiment, and several visitors were to dine at the mess; when to the astonishment of its members, Mr. Battier, who had so quitted the regiment, who had previously begged not to be exposed by appearing in its ranks either publicly or privately, who had stated it to be unpleasant to him to remain with the regiment, who has since called upon the whole world to proclaim the independence of his spirit—declared the officers of the 10th were fools, every thing but gentlemen or composing a society which any rational mind could desire, and above all has expressed his contempt even for a military uniform—the same Mr. Battier presented himself! exposing himself (as is to be presumed, because if otherwise, *even he* could not have expected admission) in full dress uniform—his *own person* tricked out, according to his own quotation,—

—— "in foreign trasherie
Of tinkling chain and spur,
A walking haberdasherie
Of feathers, lace, and fur!"*

And here Lord Londonderry interfered: not by exposing even such extraordinary conduct before the officers, or any one else, but by expostulation in *a private room* "up stairs." *There* "his Lordship," says Mr. Battier, "was pleased to call my leave of absence an order to quit the regiment." His Lordship, as every soldier knows, only translated, into plain English, expressions of tenderness that deserved a better return to those who used them. He only did what he was bound to do by the laws first quoted in this paper to preserve the discipline and the harmony of the corps, then under his own personal command, however he might complimentarily waive it. For contrary to discipline no one can doubt it would have been, to permit any man so to act towards a corps; and with what spirit Mr. Battier must have desired to *associate* in hilarity with those he considered so much *beneath him* in every thing but their military duty, must be easily conceived. It is true, that in his eloquent appeal to Lord Londonderry, as he states it, he did condescend, for a moment, to consider the corps as composed of *gentlemen*. Equally however to the indulgence granted to the Muse, must we allow, inconsistency to "the poet's eye in a fine frenzy rolling" over *a torrent of eloquence!*

Rather coldly upon this comes a pecuniary calculation of Mr. Battier on the mess, for which, with

* I must beg pardon for this demi-plagiarism from the reading of Mr. Battier, on the ground of a desire every where to adopt *his own evidence*. The public will know, with every deference to Sir W. Scott, that I could otherwise have no lack of quotation on any military aberration, while Hudibras is read.

band, he had paid, he says, for *the first year above ninety pounds Irish* money. I nevertheless prefer, I acknowledge, Mr. Battier's cold prose above either his poetry or eloquence. This was a large sum, and I will aid him in his calculation by remarking, that much the larger part must have been devoted to the *mess* from the benefit of which he had excluded himself.

It is in vain that the Commander-in-Chief forms regulations such as appear quoted in the former part of this paper, in vain that the King sanctions them and orders their promulgation, in vain that the public allows a sum of money in their aid, if instead of being directed to the union of economy and respectability, and the furtherance of duty, they become mere matters of show and *extravagance.* But as Mr. Battier does not include these points in his argument, he may justly, and others probably, say I am travelling out of the record.

Therefore, to the point. I may however here say, once for all, I regret extremely that Lord Londonderry, for want of an explicit declaration under his hand, should have appeared to the civil classes, for the first time during thirty-three years' of brilliant and approved service, for a moment equivocally; but I can at the same time easily conceive, and think any military man may do the same, that on his Lordship's joining the regiment it was not deemed necessary, though it certainly would have been better, to communicate a disagreeable affair that had long since occurred, and been put an end to *satisfactorily* to the person complaining, while the fact of Cornet Battier's absence, and the nature of it, would necessarily come under his Lordship's view, and the result be produced as stated.

To proceed. Being informed, *repeats* Mr. Battier, only speaking in the third person,* " that the reprimand of the Commander-in-Chief was not intended to be made public, I adopted the resolution of retiring from *the service*, on *half-pay*, and publishing the facts myself." How foolish as well as illegal was this determination, will be seen from the last quotation (with its introduction) at the commencement of this paper. As before, he uses the *argumentum ad hominem* towards the corps and its Lieutenant-Colonel, in a way, which in common parlance, would be called abuse. I have no desire to defend Sir George Quentin; I leave him to the fate of his reprimand, &c., no common one, assigned him from a quarter impugned for neglect and denial of justice! but to assume one part of Mr. Battier's style, I would apply the old proverb " Give the devil his due :" *He* cannot be an " *upstart*," q. d. one *suddenly* raised to the power of exercising insolence *(if he did so, which I am not prepared to say)*, who required *thirty-one years*' service to this power, which, according to the military calendar, is the period since Sir G. Quentin's appointment of Cornet in the 10th light dragoons (hussars), exclusive of seven years' previous service in the Hanoverian army.

An extract from a final letter of Sir Herbert Taylor, addressed to him on Feb. 17th, is now given by Mr. Battier; and I will aver without *much* fear even of contradiction, without *any* of

* It cannot escape remark, why the paper signed by Mr. Battier should be written in the third person. It must either be to afford opportunity for complimenting himself, or being written by another, the writer chose to preserve his right, title, and interest to the eloquent composition thereof. It cannot surely be to throw an onus of libel on the newspapers. It must be treated as Mr. Battier's.

disproval, that *this letter alone* raises the character of the present military administration of the country beyond that of any preceding one, and equally to that of *any state* whether in ancient or modern times. What sensibility, what tenderness, what minute care and attention are to be traced in every line, to sustain Mr. Battier *in society!* I have no doubt, though Sir Herbert Taylor has not stated it, that its declarations were made in compliance with some expressed desire of Mr. Battier, which of course Mr. Battier did not *feel* it necessary to his case to avow; and if so, I cannot here, as I have desired to do heretofore, imitate Mr. Battier in the expression of my own feelings upon the subject. I shall take the liberty of referring you, him, and all concerned, to the memorable expression used by a former ensign of the 1st foot (who remained six years without promotion, though afterwards High Chancellor of Great Britain) in the case of Lord George Gordon, (an. 1780) when, having, at the *urgent solicitation* of a man, signed a paper which he stated to be useful to his preservation, the possessor *produced it* as evidence to destroy the life of his benefactor! Humanity sickens, and society is shaken, by such moral convulsions.

It was only after I had written the notice of this letter that I perceived it was not the *whole* letter, but an *extract!* another *hiatus!* and why? Cornet Battier, abandoning military service for the purpose of doing justice to the army, shewing that there was no justice to be obtained in it, and producing documents, should, without any particular technicality of proof, have given the whole. But what is still more, from a subsequent document it appears that an explanatory letter of Sir H. Taylor,

of January 17, is entirely omitted. A shocking hiatus this; it would be deemed by some reasoners both weak and wicked.

However, having gotten to the conclusion of this singular document, I shall pursue it no farther than to submit, that as Mr. Battier justly observes the King may make officers but cannot make gentlemen; so birth and education may make gentlemen, but not officers.

Mr. Battier, indeed, concludes with a general challenge. This might have been vastly well to have *begun* with, but in this stage of the business, both himself and his friends, and every one else must be aware, that it is nothing beyond a mere, and I will add a *mean* provocative; since under its generality it applies no where, is *vox et præterea nihil*; and even if he ventured it particularly, would be with such fearful odds against any officer of the 10th in favour of his opponent, as to clearly prohibit it, even exclusively of the specific prohibition, in this case, of the Commander-in-Chief.

Agreeably to military adjudications of long standing, Lord Londonderry, whatever the vituperation against him or his corps, could not answer Mr. Battier in print, as he, Mr. Battier, must have known; his Lordship therefore expresses to the Commander-in-Chief his astonishment and indignation.*

* Since this was written, it appears that Lord Londonderry, with the high spirit that belongs to him, has braved every thing, and waived also his rank, to give Mr. Battier, at his desire, satisfaction in the field. I forbear from any comment on the subject. It speaks for itself.

In answer to this expression comes the letter of Sir Herbert Taylor, of the 22nd of March, which in a moment of vivacity you have treated with all the force of irony, and in verbal criticism outrivalled Bentley and Dennis, in the philological wars of the last century. Though this was done, no doubt, with the best intentions towards the army, I must apprehend it will produce a very different result. Do not let me be understood as alluding to any vindictive effect, that is out of the question. But if in administering a great power with tenderness and delicacy, and enabling the public to know that it has been so administered, the official persons are to be subjected to vituperation on one hand, and an unfounded ridicule on the other; no other course will obviously be left to them than an unbending execution of the law, no other answer than the ancient ordinance *car tel est notre plaisir*. Who *then* shall attempt, as Sir John Davys has it, to "sweeten the bitter waters of *summa jus?*"

Sir Herbert most properly traces the case *ab ovo usque ad mala;* he supplies what Mr. Battier had chosen to omit; and what, from the termination of the inquiry, it had been unnecessary for him to know; that even while the exchange was officially going on, and Mr. Battier was meditating his schemes for proclaiming the partiality evinced to the regiment, and the refusal of justice to himself, the strongest measures were using towards the former in favour of him! "Col. Sir G. Quentin was *ordered to reply to Cornet Battier's letter,* and that reply not being satisfactory, the Commander-in-Chief ordered the military secretary to write to Lord Londonderry to express his surprise and regret that his Lordship should, by his proceeding on the 24th, [of course as stated by Mr. Battier]

have, in fact, made *himself a party to the conduct* which had incurred his Royal Highness's *displeasure*, and been marked by his *serious disapprobation*."

Lord Londonderry stated his utter ignorance of the previous proceedings, or the displeasure they had incurred, he *denied many of Mr. Battier's statements*, and explained his conduct nearly as it is here before stated; and it is remarkable at least that Mr. Battier, though he attempts to controvert Lord Londonderry's ignorance of the first facts, does not *positively* contradict him; he only speaks of the "*improbability* not to say impossibility" of such an ignorance; and puts *interrogatories* as to certain circumstances, which, if he had evidence, he would surely state as demonstrable; such is his *enquiry* whether Lord Londonderry had not the papers, comprising the whole matter, in his possession an entire day, and on returning them did not state he had made himself master of the contents? This is so particular in detail, that if true, surely Mr. Battier could have found some way to convince the Public, and convict Lord Londonderry, instead of asking a question where it was not just to ask it, and which he could not expect to be answered! The minuteness of the detail is nothing in favour of its truth; such are often heard at Bow-street in opposition to the best evidence.

However, the Commander-in-Chief did not stop here; he censured, in strong terms, Sir G. Quentin, for *not* having informed Lord Londonderry; and takes occasion to repeat his censure of the corps, with a general prohibition.

Now it is worthy of remark, that although Sir George had been, as is known in the military circles, long intending to retire from his command,

and was therefore quite independent of Lord Londonderry, yet he succumbed to this censure, and has not once pretended that he *did* inform his Lordship in any way: this is, I think, strong evidence that he did not do so.

The letter of Sir Herbert Taylor proceeds to examine the subsequent conduct of Mr. Battier. He justly observes upon the spirit in which only Mr. Battier could visit the mess. To seek the mildest motive, I may assume that it was self-aggrandizement at the expence of the company.

Here also is a discrepance which Mr. Battier seems to admit. He had spoken of an offer to remove him to half-pay of the *8th dragoons:* Sir Herbert's letter to himself, of the 13th of January, evidently not written for the Public, states a lieutenancy of *infantry.* I should be willing to give Mr. Battier the benefit of supposing, that he might have asked the one, and been offered the other, but that he expressly says he was "*allowed.*"

It ends by directing the regiment to take no notice of Mr. Battier's statement, and supplying this letter which Mr. Battier had omitted, and was *in answer to his last appeal,* of which Mr. Battier has stated his Royal Highness was pleased to *take no notice.* Yet this letter quotes Sir C. Grant, for the matter of a report, which Mr. Battier attributed to Lord Londonderry.

Surely such a mode of sustaining a *good* cause would be very ill advised.

I now, Sir, come to your remarks, in a leading article, on the foregoing letter; and any comment I may venture upon them, is, I assure you, made with great deference. Confident, however, that in

those remarks you were actuated by a desire to help the *really* oppressed when they cannot help themselves; and to this purpose had only in view the elicitation of truth; and that it is very difficult from such a statement as was originally presented to your notice, particularly by any one unacquainted with military service, to collect the real facts; I rely on your usual candour to allow me to point out where you have been very naturally misled in regard to them.

I duly recognise the wit with which you affect to doubt the authenticity of the letter, though signed by Sir Herbert Taylor, from its "tenour and composition." Its *tenour* I have endeavoured to shew just; of its *composition* I shall hazard a few words. I will readily concede that the letter may not have been written by Sir Herbert, for he, or any other person at the head of a high office, must have some immortal quality for which I cannot find a name, if, beside transacting its business, he actually wrote every letter which he signed. One of your correspondents calls it the letter of *the private secretary;* I confess I do not understand him; but let all this be as it may, I must acknowledge that I have been unable to perceive any very glaring bad construction, or violation of grammar; probably from want of power, of which this communication may already have produced sufficient proof; and nextly, I would plead, that, however desirable in all ages, it is too much to expect from military men in the present day, who *even profess composition,* always the style of Cæsar or Lucullus; while the present is a mere business letter, a matter of technicality. And you will readily remember the predicament of one of the greatest masters of the English langaage, when called upon, by his

office of secretary, to write a particular letter; while studying its composition his chiefs became impatient, and ordered a clerk to do it. "Southwell," says Johnson, "readily told what was necessary in the common style of business, and valued himself upon having done what was too hard for Addison!"*

You recite the facts, and I am sure you will excuse my setting you right in the second, particularly when I do it on Mr. Battier's authority. You will find, from his own pen, that he was not obliged to quit the 10th hussars in consequence of the *contempt* which he experienced. Your first paragraph claims the gratitude of the *truly* oppressed; the irony of your next is admirable; but if a "meek and conciliatory disposition," which I, as an old-fashioned military man, hold to be among the highest qualities in the administration of power, can at all excite ridicule, you will, on perusal of the documents on your own files, see that it cannot be, from its direction, *in favour of the officers of the 10th,* of whom the communication you so characterise reiterates censure; but *of Mr. Battier,* whose utmost expressed wish is thereby in fact granted!

So far from this favour, I should indeed be sorry to consider any regiment in the service so humiliated as *Mr. Battier himself* describes the 10th hussars to be, by the censures of the horse guards on his account. I would rather see it, as Lord Londonderry's former corps was, from mistaken feelings, rendered extinct.† However, the 10th,

* Lives of the Poets—Addison.

† The 5th light dragoons, which will be found *still a blank* in every Army List.

which by the last paragraph of this letter is precluded from offering any explanation, must deem it any thing rather than "a prime thing!"

You observe that not being "military people," you can hardly conceive why an officer, with the highest character from two different cavalry *regiments*, should labour under incapacity and unfitness for the duties of a regiment of cavalry. Such a thing is difficult of conception, but it is nevertheless *proved* by the best possible evidence; that of Sir C. Grant, so entirely appreciated by Mr. Battier, and Mr. Battier's own admission. To aid its conception, I, who have been one of the military people, will, if you please, offer a suggestion, which at the same time acquits the three officers (not *regiments*) whose letters misled the Commander-in-Chief, of misrepresentation. Again Mr. Battier's defective statement comes into view; for no such suggestion would have been necessary, if he had simply, as any other military man would have done, included in his statement the letters of Colonels Gordon, Hughes, and Murray; that is to say, if they answered his purpose. For if they were *general*, such as I have seen hundreds, though they would be quite sufficient to warrant the Commander-in-Chief in his appointment of Mr. Battier to the 10th or any other regiment, *till found to be incompetent*, yet they would make nothing for *this case*.

Supposing, for instance, these letters were to this purpose, though, perhaps, in many more words:

'France, or Brighton, &c. &c.

'Dear Battier,

'I have great pleasure in stating that your conduct as an officer and a gentleman, while

under my command, was always such as makes me desirous to remain,

'Dear Battier, Ever your's truly,

'To Cornet Battier, 'G., H., or M.
&c. &c.'

What commanding officer, where a man, till then unblemished in character, was about to quit his regiment *unfortunately to himself*, though required by the country, on reduction, or even otherwise, would refuse as much as this? which, be it remembered, I give only suppositiously, and not as evidence, for I have no power of acquiring the real terms, since Mr. Battier has chosen to withhold them from us.

But this, or any thing like it, happens not to be more than the Commander-in-Chief himself kindly ordered Sir Herbert Taylor voluntarily to say of him, even *after incapacity* in military duty had been proved! So, that without entering on a military treatise, it may, I think, be obvious, that there is a very particular distinction between correctness of conduct or qualification in an officer in a state of inertness, and one of activity. Mr. Battier's *moral* conduct is till now *unimpeached;* it is the capacity, the *tact for cavalry manœuvres* that is the question.

Nor need he, I will say, speaking as I do, as entirely as, if not more, *independent* than, himself, deem this a criminal charge against him, where the finest minds and the strongest heads have been defective, while mean intellects have been found proficient. So have I seen, beyond even this country, the *mathematician* himself; such is the difference between theory and practice. That I deteriorate not from the intellectual powers,

any more than the education, and moral character, of Mr. Battier, I shall evince by stating my opinion that even Milton, that sublime ornament of the British classics, he, who

——— into the Heaven of Heavens
—— presumed, an earthly guest!

though his zeal on earth was equal, would have (to descend in language) made but a poor figure as Adjutant-General of Sir William Waller's army; which appointment was, I think, in agitation.* Waller not being, like his relation, a poet, and having suffered defeat as well as enjoyed victory, made *new regulations*, which seem to have excluded even Milton!†

Thus the public, which sent Mr. Battier to the 10th hussars to perform certain duties, of which he has been proved, and has admitted himself to be, incapable, may, in whatever portion of it he may honour with his society, find him nothing less acceptable, unless indeed from the discussion he has raised.

Again, Sir, as to your facts: you will find *not one* in your fifth paragraph authorized even by Mr. Battier; and as to the last, a flat contradiction from the most indubitable testimony, that of Sir C. Grant. I need not recapitulate the facts by which this is already amply shown.

You impugn the letter of Sir Herbert Taylor again for speaking strongly of Mr. Battier's *utter unfitness* for the duties of a cavalry officer, and the *impossibility* of his being improved by *instruction*. Dr. Johnson, whose judgment in this respect will hardly be doubted, says, in the very biography last quoted, "*nobody can be taught more than they can learn.*"‡

* and † See Johnson, *ubi supra*. ‡ Life of Milton.

And your rather triumphant recurrence to the testimony of the Cols. Gordon, Hughes, and Murray, compels me unwillingly to add another notice upon it. With regard to the first, it is current in the military circles, that Mr. Battier hardly did any duty with his regiment, the 5th dragoon guards, however acceptable otherwise; of the second, I will venture to say, that, however wordy, it evinces more *kindness* than *particularization*. In fact the same may be said of all three; for the Hon. Col. Murray was, it is well known, not very much with his regiment. It is singular enough to remark that the chief distinction of the 18th hussars, on service, was obtained by the same Lord Londonderry!

A slight glance at the letter, will serve to convince you of the little foundation for your closing paragraph, on a supposed discrepance between two observations of Sir H. Taylor. Of the first quotation you will then perceive that *even you* have taken but half; leaving out that Mr. Battier was told that he had better remove to half-pay, to which was added the benefit of purchasing promotion in *infantry*. You then ask how could Mr. Battier *retire* for *any purpose*, when his retirement was suggested and prescribed by another? I would answer simply because Mr. Battier himself has told us so: Mr. Battier was recommended to retire in one way; he tells you his independence made him retire in another, for the specific purpose which is our subject.

That you should have been misled, Sir, by such a document, with the most virtuous ardour for the good of the service and indignation against tyranny, in the haste of the periodical press, I can easily conceive; and in thus offering to you the results of my leisure, I do not despair of your pardon, nor

of your deeming the trouble of revisal too great, when essential to truth and justice.

——— The eyes of men,
After a well graced actor leaves the stage,
Are idly bent on him that enters next.

After you, Sir, even Mr. Battier himself is tame indeed! There is but a single position in his reply to Sir Herbert Taylor's letter as you have given it, that has not been already noticed in the places where they should have originally appeared. This position is, when first admitting his incapacity as charged, he attempts, by way of apology, to implicate Sir George Quentin, because, he says, that officer "ordered him on *two* different occasions to attend no drills, no parades, no duties, whatever;" and he asks (for he speaks now in the first person) "was it to be expected that I should attain it by inspiration?" This must seem very rational to you, Sir, more particularly when he quotes the very Regulations which I have quoted, justly observing that "the Commander-in-Chief's orders are strict and peremptory with regard to the instruction and the drill of *young* officers *joining* regiments." But, Sir, on a little examination, you will find that these orders cannot apply to Mr. Battier: they apply to youths on their first entrance to the army, (which may be at the age of *sixteen*), not to officers of *six or seven years' standing;* when the same Regulations as quoted at the head of this paper require that at the end of TWO years, they shall be "capable of commanding and exercising a troop in every situation, and *perfectly acquainted* with its interior management, economy, and discipline;" that they shall not only be capable of all duties as a Cornet,

but with those of *Captain:* and you will clearly perceive that this is quite reasonable as regards the public interest, since at the end of *two years*, Mr. Battier or any body else, if opportunity offered, might attain the rank of Captain; at the end of six, that of Major.* Mr. Battier might, in possibility, agreeably to the Regulation, have been Major in full command of his regiment *a year ago*. For, as it is necessary to shew you upon the whole of this paragraph, you will find, in any of the army Lists of the time of Mr. Battier's continuing in the service, that he entered the army on the 8th of May, 1817.

But Mr. Battier was *twice* told not to attend drill, &c. He has not, as usual, told us when he joined the 10th, but I naturally collect incidentally from his mention of paying £90 to mess and band for "the *first* year," that he had been more than a year in the regiment. Take it at a year, and subtract two periods of six weeks each=three months, he would have had nine months' incipient drilling in the 10th (exclusive of his former six years drilling), which is sufficient for a recruit from the plough! That Sir G. Quentin, or any other commander, would naturally say to an officer whom drill could not render effective, "Sir, do not attend drill;" meaning, of course, "I see it is to no purpose; I must relieve myself of responsibility, you cannot remain." If he was incapable of *drill*, he was incapable of falling in on *parade*, and still more so of *duty*.

Mr. Battier called on Sir C. Grant; he is remarkably particular, for the first time, in *proving* the *useless* fact that he did so. Sir Colquhoun said, he

* Formerly our Colonels could be made in their cradles; a system not entirely destroyed till the administration of the Duke of York.

should inspect the regiment in a *few days*, and would then examine him (kindly, *not alone*, but) with the other officers. Now in these few days wonders might have been done, without "inspiration." If Sir G. Quentin told him not to attend regimental drills to throw others out, he did not prohibit his obtaining private instruction from the riding master or the serjeants of his own troop. If Sir G. Quentin was harsh, they could not have been so. Sir C. Grant did inspect. Mr. Battier has not told us the result; but Sir C. Grant has, by a *special* report, in addition to the ordinary ones. Sir C. Grant treated him in the same spirit with Sir H. Taylor; but both must do their duty.

A very few words will suffice on two letters subsequently inserted in The Times.

An Hon. Correspondent, whose style I recognize in the first, lauds your exertions, and I have done the same; but when he says that no General Officer interferes with a mess table, he forgets at the moment that every General Officer is bound, by military law, to report confidentially on the very economy of the messes of regiments in his brigade: and again, when he declares that Lord Londonderry could only be at the mess as a guest, he cannot have recollected that his Lordship is Colonel of the regiment, who, however he might waive interference, was, while present, Commanding Officer; and that, moreover, through the Colonel of the regiment, as will be seen at the head of this paper, many transactions must necessarily pass, none more than those concerning Mr. Battier.

Your other Correspondent, Miles, is really inexplicable; unless in attributing tyranny to the people

at the Horse-Guards, with which Mr. Battier does not charge them: and quoting a reprimand of Mr. Battier from that quarter, and contemptuous treatment of him by Sir H. Taylor, which we no where else find. He admits that Mr. Battier proposing to dine at the regiment, when on leave, was irregular, but omits the peculiar nature of his leave; and makes other admissions, of which I know not how to take the benefit. "The *private* secretary has *proved* Mr. Battier to be *weak* and *indiscreet;* he is acknowledged to have *disgraced himself!*" Why nobody before conceived any thing like this! till he published his letter. It is true he speaks in the plural, including Sir G. Quentin, whose retirement, he says, is an exchange never heard of. Your Gazette, Sir, will show you that such exchanges constantly take place! and as to the advantage, it appears to me, from the King's Regulations,* that by it a full Colonel, of 1814, consequently approaching the rank and pay of General, has forfeited all claim to further rank and employment, and the post-mortem pensions of his wife and children. He concludes with a hit at Colonels Gordon and Hughes, and Ministers, who have nothing to do with the case. I would hope to have misunderstood, I have certainly not misquoted, him.

Thus, Sir, having gone through all I find in your journal on the subject, I trust that upon a review of it, and a comparison with the military laws applicable to it, you will perceive that the

* See General Regulations and Orders, p. 48, and Circular Order Secretary at War.

arguments used have been greatly unfounded, and the facts, hitherto neither wholly, nor correctly stated.

Mr. Battier chose to enter the army, and he knew the terms upon which every one adopts the profession of arms in England, and the duties prescribed; he was attached for several years to two regiments; the one I have heard he but little honoured with his presence, the other, I *know*, not eminent for discipline* at the time; he then joined a regiment peculiarly distinguished from having been many years an object of the King's personal care, while its Colonel, and commanded by an officer whom even his opponents described as one of the *best horsemen* in Europe.† What had escaped attention in one case and unobservance in the other, could not do so here; and thus he was a disagreeable accession, and it would appear disagreeably received. No common observer of human nature is ignorant that we are the last to see our own imperfections; that the more striking they are, often the more positive is the possessor in insisting upon his title to respect; and by no means least in the army, where every regiment is a microcosm: I am afraid this axiom had place in the 10th. Whatever were the consequences, dearly did the officers pay for it, while Mr. Battier obtained a triumph, to his description of which he

* I am apprehensive the *chief* honour of this regiment was obtained by the present Lord Londonderry on the retreat to Corunna, where his Lordship, who formerly commanded it, with a piquet of it and Germans beat a body of the French Imperial Guard, when Brigadier General, taking their Colonel (Gen. Lefebvre) prisoner.

† Trial, Gurney's edition, d. 257. In ub. sup. 270.

set no bounds.* In the mean time, as hath been shewn, his imperfections are treated with the most refined delicacy by his General, as himself declares, and by the Commander-in-Chief of the forces, and his Military Secretary, as is proved by others. Instead of being dismissed, as an "*incumbrance*," according to the injunction of military law, he is aided in retiring upon civil society as an *officer* and a gentleman. Intoxicated with honour when he feared disgrace, and knowing how easy it is to raise a ferment in the public mind, often with more success in a bad case than a good one, he has adopted the course of which this is a very humble, but it is hoped a tolerably faithful transcript.

For this he has advanced, or rather, perhaps, been advised to advance, as a reason, nothing less than that the Commander-in-Chief did not absolutely *proclaim a new martial law* in his favour. This is in as many words his professed object: for mere promulgation to the army of his case, if it were even incumbent on the Duke, or regular, he shews of himself would be supererogatory, and therefore could be no satisfaction to him—in the inflation of his new dignity what could? That a severer punishment has already been inflicted on the commanding officer, than a military court would have in all probability awarded, may be assumed from actual precedent.† That Mr. Battier has not received *exactly* justice, I am willing,

* From a General Order since issued by Lord Combermere on the regiment quitting Dublin, it appears that the offensive conduct complained of by Mr. Battier, originated with "*only one or two individuals*," while the general conduct of the regiment was deemed praiseworthy.

† Trial, Gurney's edition, d. 270.

looking to the *present* military law, to concede to him; that he has received an *extraordinary measure of kindness*, must be evident to all the world from his own documents.

Indeed, on looking at what I have written, I am ashamed to see that I have used so many words on so palpable an absurdity as this case, as regards Mr. Battier, taken altogether; but it immediately occurs in conciliation that it requires all those words and much laborious investigation, to demonstrate this absurdity, veiled, as it is, by all the meretriciousness of dishonest eloquence.

It is only at the end of these observations, that I use these terms, and from a review of the whole evidence; Mr. Battier has, with whatever grace or gratitude, returned, by favour of his superiors, to society, with new importance; but he ought not to do so, whatever his practice upon *their* feelings, at the expence of national honour, with which the military service of the country must ever be closely identified.

I have the honour to be, Sir,

Your most obedient Servant, and

CONSTANT READER.

Wimbledon, April 20, 1824.

P. S.

Since this letter was written, and in fact laid by, a supplementary case has arisen which forms the most striking part of the whole—a meeting between Lord Londonderry and Mr. Battier in the field.

It would seem that the latter, in some part of his last letter, which did not appear in the Journal whence only the preceding quotations were made, Mr. Battier had said that Lord Londonderry *sheltered himself under his rank.* This surely was the climax of misrepresentation! Beside the general and specific prohibitions, under which his Lordship laboured, it was, according to the only just principles of duel, a case in which he ought not to have attended to any call of this nature. As it has, however, terminated without any evil beyond a bad precedent, and some good, Lord Londonderry,—like the Count de Guiche when he beat the enemy by swimming his squadrons of cavalry, unbroken, over a river which he had *mistaken* as fordable,—must be allowed the glory. His Lordship's manly spirit could not brook, for the first time in his life, even a false allusion to personal reservation; and thus broke through every thing, to convict Mr. Battier in this respect. Col. Sir H. Hardinge, of the Guards, M. P. and Secretary to the Ordnance, attended him. Mr. Battier had for second Col. Western, it is believed, of the Anglo-Portuguese service, late Capt. 18th Hussars. They met on Thursday the 6th instant. There are many stories about want of pistols and mistakes, which would be very irrelevant here. They met at ten paces; Sir H. Hardinge gave the choice of his pistols to

Col. Western; the word was given. Lord Londonderry's shot passed Mr. Battier on the right. Mr. Battier's pistol missed fire. His Lordship remained on his ground, and requested that Mr. Battier might have another shot. This Col. Western very properly declined on the part of Mr. Battier; and there in course the firing ended. Col. Western, doing the best for his friend, proposed the usual shaking of hands. This, as Sir Henry justly said, was impossible, and Mr. Battier declared himself satisfied.

Now comes the part applicable to this paper. Sir Henry, in addition to being a brave man, seems also a man no less distinguished for the despatch of business. He called the attention of the principals and the other second to Mr. Battier's statement of Lord Londonderry's shelter under his rank, which he presumed now to be *disproved*. Col. Western and Mr. Battier assented: He then stated that in the same letter Mr. Battier had asserted that Lord Londonderry had seen the papers conveying censure upon the 10th hussars, though he had denied it. As will be seen in the foregoing remarks, Mr. Battier had not exactly done this; but he had *insinuated it* by interrogatories, and these, in the present forum, were quite sufficient. Sir Henry, on the part of Lord Londonderry, declared that such an assertion was FALSE. Mr. Battier adopted the charge by asking, If it was meant to call him a liar? Sir Henry most adroitly answered this extraordinary question by observing, Mr. Battier *must have been misinformed*, but that he could not qualify the expression, and that Lord Londonderry was ready to maintain it, by resuming his ground. Mr. Battier enquired if it was intended to add fresh insult, as if so it was better to go on.

This was something better than the interrogatory. Sir Henry repeated his assertion, and said that it was for Mr. Battier to take his course. He, not improperly, referred to his second. At Sir Henry's suggestion, they retired a few minutes, when Col. Western declared Mr. Battier *satisfied.*

As it has been, it is hoped evidently, desired throughout the whole of this paper to give Mr. Battier every degree of latitude in his favour, so the present writer cannot but express regret on his part that it should not be deemed necessary by himself or second to say so much even as—"Then I must have been grossly misinformed; for so *I was* informed, and so I believed, till Lord Londonderry has, in this manly manner, directly disproved my information: I therefore no longer believe it, and consequently feel that I ought to be satisfied." If, as hath been assumed in this paper, he only put interrogatories and did not *assert,* he should not have *adopted* the offensive term.*

At present Mr. Battier, after exposing his life, if his brave opponent had willed it, stands in a much worse predicament than ever. It is true, that since the sudden death of his second,† he has attacked Sir Henry Hardinge, for misrepresentation; and supposes Col. Western so weak as to sign what he had not read, on such a subject! and requests suspense of judgment. Let it rather be oblivion.

* The writer would not swell this paper by reference to the Laws of Duelling and *Duties of Seconds,* or fruitful points to which this Postscript gives birth, as relate to parliamentary, forensic, and literary duels. The former will be found in the "Military Law of England," p. 33, *et seq.*

† Col. Chas. Maxwell Thos. Western died on Friday, after an illness of two days.—*Times,* 17th. He was, it is said, a brave, good, and honest man, but very unfortunate.

If, on seeing the multiplication of words in this paper, the writer feared there were too many for either the Journalist, or the Public; this supplementary proceeding must set that fear at rest; for surely any thing that can impede a repetition of such cases, as regards the army, the military authorities, or the public, cannot be written in vain.

May 18, 1824.

May 20,

"More last words!"—but also, it is presumed, further proofs of the last sentence of this paper. A General Order was issued by the Adjutant-General on the 13th instant, though it appeared in The Times only yesterday, conveying a severe censure of the King to Lord Londonderry for the meeting before described. It adds a confirmatory caution to colonels and commanding officers, of the last law at the head of this paper, in which it justly ascribes to such matters "a tendency to destroy the efficiency of the army."

That this order should generate cavil, will not excite surprise. The Times, however, has very sensible observations on the subject. The duel is said to have been "no proof of *wisdom* in either party." Certainly not: Mr. Battier preferred reporting to fighting in the first instance; and he selected publication in the other. And how either second could have gone out after *agreeing* that Mr. Battier *had no title* to call upon Lord Londonderry, is marvellous, both as respects the laws of duel and the laws of the land. With equal justness it is said, that it "afforded no greater proof of courage than both of them had credit for;" and that

"the quarrel ought to have ended many weeks before the fighting began." Such was the principle on which the preceding observations were thrown by. The only apology belongs to the party challenged, in the tortured feelings of a noble mind, irritated by repeated calumny till it loses self-government. An insect can rouse a lion.

Last Tuesday's Gazette contains the notification that the name of Ensign Battier, on half-pay, of the 35th foot, is struck out of the list of the army. The Times enquires, naturally, "Is not this a severe measure, *if* really a chastisement for fighting?" It is not a chastisement for fighting. It is a visitation, and a long-delayed one, for protracting endeavours to excite indiscipline in the army, and an ill-founded fervour in the public mind. That the "luckless ensign" is not "irretrievably ruined," is evident from his own declarations of his fortune.

As however this point will no doubt be treated in the usual way,—indeed, a paper called The Globe and Traveller has, it seems, threatened multifarious vengeance!—it shall be stated that Mr. Battier's pecuniary loss is just *three shillings a day*, and if he should desire to add the value of his commission, and the difference paid, if he paid one, on his exchange to full-pay, though it has evidently nothing to do with the present case, it may be anticipated: Mr. Battier has brought interrogatories into disrepute, yet it is the only way in which this point can be put. It may therefore be enquired whether, *adding every cost*, Mr. Battier has not, *every thing* considered, *pecuniarily gained* by his exchange to half-pay? It is a question to which, indeed, no answer should be made, but it is one on which he should not disquiet the public. *Military men* will perfectly understand it.

On the whole, that has only now taken place, of which Mr. Battier, as hath been shewn in this paper before, was, or ought to have been, fully aware would take place, upon his incurring the penalty as he hath done; he has no longer a shadow of ground to stand on; and if any officer of the 10th hussars, or any individual either directly or indirectly connected with the case, should furnish him with any ground either by pen or pistol, he will merit any penalty, even to the *Atimia* of the Greeks!

On the subsequent challenge of Sir Henry Hardinge by Mr. Battier, and his use of the horse-whip or cane, no "more last words" shall be added. Mr. Battier, by his unfortunate choice of a second, in many respects, and an equally unfortunate choice of council in others, had placed himself in a situation of the most extraordinary kind, from which nothing could relieve him. It is hardly necessary to add even to the detail of facts, that publicity has been given to a testimony of approbation from the Commander-in-Chief, on Sir Henry's refusing a meeting; since the matter had by this time gotten into such bad taste that the public had evidently anticipated it.

The subject is now altogether left to the promised volume whenever it shall appear; which must be an important *memento* on the subject of military law, whatever it may be on DUEL.

It has been suggested to the author that he ought to take some notice of cases that have lately oc-

curred, which are certainly prolific of remark, but that the space which he has prescribed to himself *at present*, precludes illustration. Three, however, shall be just mentioned.

Capt. Calla'n and the Rev. Mr. Saurin.

The former gentleman (for he has not been proved otherwise) deemed himself called upon to protect certain ladies (not proved otherwise) from the rude gaze of Mr. Saurin, whose rank is in course determined by his title, at a time when he was not *in pontificalibus*. He demanded the offender's card, which was given *mutilated*, to conceal the sacred character of the respondent. Difficulty occurring on this point, the demandant, supposing he had not a gentleman to deal with, applied his cane to the person of Mr. Saurin. *All this*, it is presumed, will be found from the preceding text to be *on both sides* wrong! It was not mended by the reverend gentleman appealing to municipal law, under which Mr. Calla'n was subjected to a sentence of peculiar severity, a fine of £20, and a month's imprisonment in the common gaol of Surry, rendered particularly severe by one of those acts which sometimes hastily pass through the legislature. On the subject of these pages, however, it is due to Mr. Saurin to say, that he is understood by the journals to have stated his readiness to *waive his ecclesiastical character*, in another dress, notwithstanding his unaccountable appeal, under such opinions, to the law. This is beyond the bravest members of the church when the law prescribed duel; *they* had their champions. So it was even in the succeeding case.

Lieut. Finch and —— Beeby, Esq.

The former gentleman, well known in the 8th, or King's regiment, and in the Life Guards, as well as by his marriage with a lady of family and fortune, being at a restaurateur's, in Paris, recognised, it appears, complimentarily, a clergyman whom he had known in England, and the compliment was not returned. He said to his friends, he thought he had honoured the clergyman more by his recognizance, than he would have been honoured by his return. The Rev. gentleman's friends foolishly resented this observation, and they, not very wisely, proposed to elect his champion from themselves, either by Mr. Finch's selection, or failing in it, casting lots among themselves. Mr. Finch selected Mr. Beeby, as one from whom he had formerly received an offence. They fought, and Mr. Beeby, on the first shot, fell. Who were the seconds?

Much more might be said on this subject, but as the writer believes he has had the pleasure to know *both principals*, he refrains for the present. On such a matter, it is due to one to add, that Mr. Finch is both a brave and collected man.

The last case to be mentioned arose from words used at a *public meeting*, one of the *genus omne* before quoted. After a shot, the matter was adjusted. Reference need hardly be had to the preceding text.

The very last foreign journals state a fatal duel at Strasburgh, on the question of whether a certain ungovernable horse could be tamed in three days! The deceased is nephew of a French minister.

THE END.

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